

Closed Caption Log, Council Meeting, 08/19/10

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Mayor Leffingwell: Good morning. I'm austin mayor lee leffingwell. Before we begin our meeting this morning, I want to take this opportunity to introduce a new member of our community who has assumed a very important and responsible job, and for that purpose I'm going to turn it over to mayor pro tem mike martinez.

Martinez:.

The president and ceo of capital metro has taken time to join us this morning. Linda, please come forward. We want to welcome you to austin, texas and have you introduce yourself to the council and the community.

Thank you, mayor pro tem and chairman of the capital metro board of directors. I'm very excited to be in austin and especially to be at capital metro. There's a lot of exciting things, I think, and possibilities for transit in this community. As I did my research for this position, I saw all the number one spots that austin makes in all the magazines for being a fabulous place to live. And my goal is to make sure that transit is one of the reasons that austin is at the top of that list in those same magazines. So I've been working with the staff the last three days and I plan to meet as many staff as possible in the first few weeks. Then I want to come and sit down with you individually and other members of the community and learn about the issues and visions you have not only for transit and transportation, but for the community, learn the social values of the community so that we build a world class system that fits in to the fabric of this community. So thank you very much for having me here this morning, and I look forward to meeting with all of you individually. Thank you. And I'll see you out in the community. I will be everywhere. I look forward to seeing you around town as well. Thank you.

Martinez: Thank you, linda.

Mayor Leffingwell: Thank you, ms. watson. we all obviously wish you the very best of luck in your new job. We need it. Thank you. We'll begin now with the invocation from pastor ed callaghan of the agape baptist church. Please rise.

Good morning. Shall we pray? Bless the lord oh my soul and all that is in me. Bless your molely name. Our father, our lord and savior, we bow before you in adoration, worship and thanksgiving, for manhattan blessings provided this day, for we realize that your mercies are new every morning, so we thank you for your faithfulness. Father god, we pray for the various faiths within this austin community that binds us together. And love for the common good of humanity. We pray for your divine intervention for those things that divide us as a city, county, state and country. Help us to put aside our differences and come together

in love for one another, which is your greatest gift to us. We pray for these men and women who have committed themselves to be public servants for this -- their constituents and community. Give guidance to this mayor, these councilmembers and their staffs as they deliberate over the business of the city. Help them to do that which is right and in the best interest of this community. Father, let the bonds of brotherly and sisterly love and the iewn namty of godly principles keep us bound together as one. We humbly ask these and many other blessings in your divine son's name who gives us life. Amen.

Mayor Leffingwell: Amen. Please are seated. Thank you, pastor. A quorum of the council is present, so I'll call this meeting of the austin city council to order on thursday, august 19th, 2010. We're meeting in the council chambers, austin city hall, 301 west second street, austin, texas. We're called to order at 10:10 a.m. I'll read the changes and corrections to today's agenda. First to item number 3, strike thursday september 30th and insert wednesday september 29th, 2010 at 9:30 a.m. For item number 9, add the words "recommended by the downtown commission". For item number 19, add the words "recommended by the electric utility commission". Our time certain items 30 we'll have a briefing from the austin energy -- on the austin energy rate development process. At 12 noon we'll have our general citizens communications. we'll take up our zoning matters. our public hearings. 30, live music and proclamations. The consent agenda for this morning will be items 1 through 41, plus item number 82, with several exceptions, which I will read into the record momentarily. But first I want to read item 32, which remains on consent, but the names of the nominees and appointees will be read into the record. To the board of adjustment, heidi gebble is nominated by councilmember spelman. In addition, we will approve a waiver of the attendance requirement in section 2-1-26 of the city code for grace e's service on the resource management commission and the waiver includes absences through today's date. Items pulled off of the items number 3 and 40 related to the proposed maximum property tax rate. Items number 9 and 17 are pulled by councilmember riley. And at councilmember riley's request we will attempt to wait until this afternoon to address item number 9. Item number 12 will be pulled for a staff presentation. Items number 10 33 are pulled for speakers. Are there any other items councilmembers want to pull off the consent agenda?

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Mayor Leffingwell: Thank you for that clarification. We will consider items number 10 and 28 together, so both of those are tuld off the consent agenda. So we do have one speaker signed up on item number 41, which remains on the consent agenda. We'll allow that speaker to speak before we take a motion on consent. Bryan rogers. Is bryan rogers in the chambers? Bryan rogers is evidently not in the chambers. Mayor pro tem.

Martinez: Mayor, is item 10 and 28 on consent or has that been pulled?

Mayor Leffingwell: It is pulled off because of speakers, both of those.

Martinez: But I believe if you look at the speaker sign-up, there was -- somebody inadvertently signed up multiple times. I believe there's only one speaker spent, one of those -- only one per present, one of those.

Mayor Leffingwell: I have three different speakers, one speaker is signed up four times, but obviously he will only speak one time.

Martinez: That's fine. So we have no speakers on the consent agenda. I'll entertain a motion to approve the consent agenda.

Martinez: So moved.

Mayor Leffingwell: Moved by the mayor pro tem. Is there a second? Seconded by councilmember spelman. Is there any discussion?

Spelman: Mayor.

Mayor Leffingwell: Councilmember spelman.

Spelman: Please show me recusing myself on item 13.

Mayor Leffingwell: Thank you. And the clerk will show councilmember spelman recused on item number 15. 13.

Spelman:

Mayor Leffingwell: All right. We got it straight now. Councilmember morrison.

Morrison: Please show me as recusing myself from item number 13.

Spelman: Actually, it was item 13, the wildflower center. 14 Doesn't involve a contract with the university of texas, therefore I can vote on that.

Mayor Leffingwell: Okay. So --

mayor?

Mayor Leffingwell: Let's get this straightened out first. Councilmembers morrison and spelman are recused on item number 13. Councilmember riley.

Riley: Mayor, if I may, I need to recuse for item number 13 for now.

Mayor Leffingwell: 13?

Riley: Yes.

Mayor Leffingwell: And councilmember riley is also recused on item number 13. For the same reason. All right. All in favor of the motion to approve the consent agenda say aye. Opposed say no. Motion passes

on a vote of seven to zero with councilmembers riley, morrison and spelman recused on item number 13. Without objection, council, and at the request of the mayor pro tem, we'll go first to item number 33, which is a special recognition. And because of the nature of this recognition and the sponsorship by the mayor pro tem -- and we do have speakers signed up on this, by the way. But I'm going to temporarily turn the gavel over to the mayor pro tem to conduct item number 33.

Martinez: Thank you, mayor. Some of the speakers that are signed up are actually on this list. I was given a list by the barrientos family to call in a specific order, so i appreciate your consideration and the council's consideration on this item. I want to give the family and supporters a moment to make their way back in to the chambers. Is judge john lipscomb still here? Okay. Mayor, I want to start with a few comments about this agenda item. As many of you know, emma barrientos passed away last december. And shortly after her passing there was a strong movement of community members and friends and loved ones of barrientos that began a conversation as to how we appropriately recognize and honor mrs. barrientos. One of those topics of conversation that surfaced to the top very quickly was naming a facility after her. And those that were involved in this community conversation strongly believed that because of her efforts for this specific facility that it would be appropriate to consider naming the mexican-american cultural center after mrs. barrientos. And that is truly where this item was born and where it came from. This was brought to us by community. We had over 700 folks sign a petition or send in a letter asking for this consideration. In many cases when we name facilities, we do have a naming ordinance for facilities, and we do have a process. But in many, many cases we waive that process when we feel like it's most appropriate to move forward with the naming of the facility. And that's what we're doing in this case. I truly do appreciate the support of the co-sponsors, councilmember cole, mayor leffingwell on this item, as well as the rest of my colleagues who have expressed their support. I think it's appropriate, but I don't -- as councilmember riley appropriately put it this morning, this is not just barrientos, this is not about one person, this is about an entire community. And that's what emma stood for. That's what she worked for every single day of her life for all of us. She certainly had her passions. And the arts and the latino community and the political process were some of her passions. And so I believe that it's appropriate that we consider this resolution this morning and that we move forward with naming the mexican-american cultural center after mrs. barrientos. This is not a slight on any other community member who worked so hard for this facility. In fact, I truly believe this is an honor for all of them. This is the culmination of decades of work, not by one individual, but by an entire community. So with that I'll begin calling the speakers as the family has requested to say a few comments, then I'll call the remaining speakers who have signed up via the city's system. So the first speaker on the list is the former mayor pro tem and my dear friend, john trevino. For he's here in the chambers. Welcome, mayor pro tem.

Good morning, mayor, members of the council, mr. city manager. My name is john trevino. I have been asked to say a few words about emma, and to be honest with you, I've thought about it, especially last night about emma, and i did an examination of my conscience about how well i knew emma. I met emma back in 1966. Gonzalo, our senator, began sol low and I had started working on the war on poverty in 1966, and we began to spend a lot of time together. Our families had started hanging out, particularly on the weekends. Our families would get together, the kids would get together. So I began to know emma in that vein, just one of the girls, the wife of a good friend. And so I guess I've always seen emma as such. She's been just one of our friends. And yesterday as I began to look at it a little more seriously, I realized

that sometimes we become involved so much in our daily life and the hustle and bustle of modern times that we really don't pay attention too well to people around us. Everybody knows that emma is a wife of our senator. Was the wife of gonzalo. But if you take a look at the life of this lady, she does not need to stand in anyone's shadow. I began to realize that this woman was many -- had many facets. She had interests in everything. And I'm reminded of the story in the good book about the masters going out of the country and he calls his servants, stewards, and he gives each one a certain amount of talents and asked them to invest. So when he came back that he was going to ask for an accounting. It goes on and tells about the different reactions of the stewards, some invested wisely and were able to double the amount of talent. Others not so wisely, and yet the last one didn't do anything with it. Hid it because he was afraid of that he was not going to really be able to do anything good with it. Emma is the first one, the first steward. She was given a talent by god, and probably the greatest of this is talent to love. The talent of charity, the talent of caring. She did not keep with within herself or within her family, but she used it and she used it wisely and invested very, very well. I say many, many facets because it wasn't just the arts, although we're recognizing them in that endeavor and naming the mac after her, but also of that -- of the political arena which all of us are very familiar with. And yes, we are beneficiaries, mayor pro tem. Emma worked not only on gonzalos campaign, but in moya's campaign, my campaign, morgan gomez's campaign, judge perkins' campaign and on and on. I think all of us who have been involved in the political arena in austin for any length of time were beneficiaries of her endeavors. She cared for the poor, she cared for the homeless. So it is not just one thing. I wonder where she had enough time. I wonder where she had the strength and energy to do all of these things. I think it's been said that she represents the best of us. And the best not only of the mexican-american or the latino community, but she represents the best of humanity. I can't think of a better way to honor this lady. She's one of those rare individuals that blooms like a flower that blooms in the snow, that we don't really pay attention to it until it's too late. I think all of us were stunned in the way it happened because all of a sudden a light is extinguished and we find ourselves that this person that we somewhat took for granted because she was always around, she was always involved, that she was always going to be here. That's not the case, and that's true of all of us. So I think it helps us to recognize the goodness of people, and I think emma was probably one of the greatest examples of what it is to use our talents wisely. So I urge the council to please support the motion before you and honor not only emma or the barrientos family, but honor all of us by naming the mac after emma barrientos. Thank you.

Martinez: Thank you, mayor pro tem. I now have judge john lipscomb on the list to be the next speaker. Welcome, judge.

Mayor, mayor pro tem, city council, city manager. That isn't actually judge until january, but I think i was the last candidate that emma was a treasurer for that she helped. And last december when I got a telephone call when jan and I were in wichita falls, I couldn't believe it. Time stood still. But we took the rest of the day and days after to think about emma. And it wasn't just a campaign treasurer that i lost, it was a friend. We had known her well over 30 years. As a great mother, as a great friend, as one hell of an activist, as a person who loved people, was compassionate and yet had a backbone of steel. I got to know her back when she was working for thomas esparza in the jp office. I got to know her as a county employee. I got to know her because on certain campaigns she would call up and say, I need your help. And you would never say no because when she called, it was always something that needed to be done.

It was always a worthwhile cause. She cared about us not just about east austin, south austin, north austin, she cared about all of austin. And she was a steward of us and for us. And to me that's what naming the mac after emma really is. She's a steward. There are a lot of people, a lot of people's decisions and a lot of people's work that went in to organizing and getting the mac built. Emma was just one of those people, but she's a very important part of that. Her blood, her sweat, her care, that is in a lot of ways the house that emma helped to build. And by honoring her by putting her name up there, i think you honor all of us in all parts of austin, and i think perhaps it would be good to inscribe above the door "what would emma do" because whenever we're faced with a problem citywide, cultural-wide, we need to ask ourselves, what would that woman who cared enough about austin to keep on fighting, what would she do and what would she ask us to do? So I would ask you to honor her by naming the mac after her. Thank you.

Martinez: The next speaker is missile via orosco. Miss sylvia or ras co-.

Good morning, mayor and councilmembers. Thank you, senator barrientos and the barrientos family for giving me the honor to speak today. Again, my name is sylvia orosco. I'm the director of the mexicarte art museum and I'm also a member of the mexican-american cultural advisory board. Most important today is that I knew, worked, admired and emma barrientos. barrientos worked very hard to create dance and art classes at the recreation centers. Later she was on the boards of the roy folklore co-. She was also the founding member of the mexicarte art museum. She worked endlessly to get the mexican-american cultural center built. Many of us are students of the arts and dedicate our lives to performing, dancing, singing, painting, but the community is not complete without individuals who are passionate about art and culture. Those individuals who love art, culture and heritage. barrientos embodied the voice, the spirit and symbolizes the community who yernz hungers and embraces everything that is art and culture. She understood and knew that culture and art is the essence of our people, and without art and culture, we have emptiness. barrientos fought and worked to promote art and culture because she knew that art and culture is history, art and culture is heritage, art and culture is about pride. Art and culture is about education of our children for today and tomorrow. barrientos and the many people that she inspired, today we have the mexican-american cultural center and many other institutions and the -- because of the good work she inspired. And we will have it for tomorrow. The emma barrientos mexican-american cultural center is a great idea. A great concept and honors her work and the work of many individuals. Our lives are so short and struggles are so long, but a memory lasts forever. By naming the mexican-american cultural center the emma barrientos mexican-american cultural center, we will preserve her work and the work of all the individuals to maintain and preserve our culture, our history, our heritage alive for today and for future generations. I urge you, I encourage you to be inspired by her work and the work of all the individuals and to go forward with this naming of the mexican-american cultural center as the emma barrientos mexican-american cultural center. Thank you.

Martinez: I thought i saw jan breland here. She's listed. Would you like to say a few words? Thank you. We also have a letter that was sent in by constable bruce elfant and I'm told that you should have that. We'll try to get that. The constable could not be here, but he did want to send and express his strong support for this stomach. So we'll have that letter and certainly put that into the record. And then lastly I have ryan duran. Great. So those are all the speakers requested by the family. I'll now go through the list

of signed up speakers. We do have some that are against this item and would like to speak. And the first speaker is gavino fernandez. You will have three minutes.

Good morning, council. My name is gavino fernandez. I'm a n el concilio, a coalition of mexican-american neighborhood associations. I will begin my comments by a famous quote benito juarez. and I will read the resolution that was passed by lulac district 12 and members of he will conceal el concilio. Whereas the conception of a mexican-american center in austin, texas was born in the bear yoas of east austin in the early '70 by east town lake citizens neighborhood association landowners, and whereas many humbles from east austin attended many neighborhood meetings to promote the creation after mexican-american cultural center. Whereas the reality of the mexican-american cultural center was a 35-year struggle and whereas the original site for the construction of the mexican-american cultural center was in the barrio of east austin at fiesta gardens. Where is a the purpose of the center is to recognize, exhibit and record the contributions of mexican-american artists in austin, texas. And whereas the mexican-american center serves as the museum of our mexican-american culture and showcases other latino artists and whereas the mexican-american cultural center features art exhibits from all over latin america. Whereas the mexican-american center recognizes the features and features mexican-american artists, musicians and poets who have passed on to a better place with god in order to preserve their history for generations to come. Therefore k it resolved that we the members of lulac distribute 12 in good standing and members of el concilio mexican-american neighborhood associations respectfully here by recommend to the council not to rename the mexican-american cultural center after any organization or individual. The mexican-american cultural center is the total pueblo. And basically what we are wanting to convey to you is that there are many people that contributed to the creation of this pyramid. And the mexican-american culture is unique. It's not like the european culture, it's not like the african culture. It's unique in that as we are raised through our families, there's one core value that is instilled in us, and that's respect. Because out of respect you gain trust. And we are not here to oppose, what we're here against is opposing the naming of the facility because the name of the facility galvanizes the entire community in the sense that there is no personalization of it. Many people can go to the mexican-american cultural center or identify to it because they can go there and visit the history and the archives. but our comments are of no disrespect to anyone or any individual. We would like for this council in the future to recognize all those other individuals that were part of this endeavor by honoring them through some form or fashion. Thank you, mayor pro tem, for bringing this up to the council, and that will end my comments. Thank you.

Martinez: Thank you, mr. fernandez. Next speaker against is mr. marcellotafuyo. That's all we have signed up wanting to speak. We have one other citizen signed up against, not wishing to speak, and that's joe quintero. And now we'll go to the remaining speakers who are in favor. Of the item. And I have renteria. Welcome.

Mayor and city council. My name is sabino renter rear I can't and I'm a lifelong resident of east austin. We first -- what gavino said is true. It's always been a dream of our neighborhood, and that included emma barrientos. We know, we have worked so many years and it was so hard. We lost our first bond election. You know, we had a lot of opposition on the location. But you know, there was one thing about emma. She could see the future. She saw that the city was growing, that we needed a presence there on the -- west of 35. And that's what I have to give her a lot of credit, you know. We didn't want to be -- just have

our place in our little neighborhood. We wanted a world class museum and art center. We didn't want a little neighborhood art center, you know. And that's what we fought for, you know. And that's the beauty of naming this for emma barrientos. Because she could see the future and she knew that the city was going to be great and that we was going to have a presence downtown. Especially during the -- by the waller creek redevelopment. And I support renaming the mexican-american cultural center for emma. Thank you.

Martinez: Thank you. The next speaker signed up in favor is mr. gus pena. I haven't seen gus this morning. After gus is alicia del rio. Is she here? Okay. Show her in favor. As well as mary anne neely. And there's about 70 others that have signed up in favor of this item, but not wishing to speak. And we will certainly enter all those names into the record. And those are all the speakers. Is there anyone else who would like to speak on this item? Those are all the speakers we have signed up. Councilmembers, I did provide some information for you because of some of the questions that arose. Yes, please, come forward. Introduce yourself.

My name is bill gert rivera. And I too -- gilbert rivera and I too have been part of the years long struggle to get the mexican-american structural center up and where it's at. One of the big issues for us has always been protecting our culture, protecting our neighborhoods, protecting our heritage. And one of the things that we saw and emma saw a long time ago was that rainy street, which was the last hispanic neighborhood west of interstate 35, would ultimately go away as it was, as we knew it, back in the '60s, '70's and '80's, and so we fought hard to maintain a foothold, a foothold in that neighborhood and the mexican-american cultural center is that anchor. We really believe that we struggled a lot. We had many conversations with former city councils about this, and one of the things that we always told everybody that even though the rainy street neighborhood may change, its character may change, its population will change that, we will always be here. And the mexican-american cultural center is that ankle. We will always be here. And to me the emma barrientos mexican-american cultural arts center has a very nice ring. Thank you.

Martinez: Thank you, gilbert. As I was mentioning, council, I provided you with some just background information on some questions that were raised this week. This resolution does waive our naming ordinance. We have an ordinance that stipulates a process for naming a facility or structure. And in many cases the council waves that ordinance. I've provided in the backup for you all just the last 10 years, I believe, in many occasions where the council believes it's appropriate to waive the ordinance. I don't want the mexican-american cultural center advisory board to feel like we're circumventing them or their leadership or their commitment to austin. It's not that in any way. It's just a past practice that we employ at times, including naming things like jesse seguvio street without a naming process as requested by el concilio. So there are many examples of different times when we've done this. And this is simply another one of those examples today. There are some folks that i do want to thank and recognize because as i mentioned earlier, this was an item that was brought to this council by the community. And so shortly after barrientos' passing, members of the community formed a community to get to this point today and I think it's appropriate that we recognize them. sandra is here. I want to recognize her. Bella sanchez. Gloria alaman. fred con tiew, I saw him here earlier. We also want to thank andy ramirez and paul saldana who

has helped us this last week in buttoning up all the information and getting the word out to the folks to be here. So with that, mayor, I'll entertain a motion for adoption of this item.

Mayor Leffingwell: Thank you. I move to approve the ordinance before us renaming the mexican-american cultural center the emma s. Barrientos mexican-american cultural center and waiving city code chapter 14.

Martinez: Motion and a second by councilmember cole.

Cole: I have a few comments because I've been around austin a long time. And one of the gentlemen who was an original founder of the vision for the mexican-american cultural center was pedro ruiz garza, who is now the regional director of the economic development administration for the southwest region. And I also recall that as has been mentioned that martha was involved and sylvia and rick hernandez and many, many others, but the real point that I want to recall is that this item failed on the original ballot. And after that emma and many of her friends and many of the people who I just named came together with leaders of the african-american community and said, we have to work together to get the carver museum. And I was on the 1998 bond committee with martha and johnnie limon, and we passed it. And I think that that is a signature time in our history. So with that, mayor, I move approval.

Martinez: The mayor has made a motion, seconded by councilmember cole. Any other discussion? All in favor please say aye. that motion carries unanimously.

Mayor Leffingwell: Thank you all for being here. And we're going to go ahead with our meeting, if you plan to leave, please exit quietly so that we can continue our discussion. And council, we'll go to item number 3 -- excuse me, items number 10 and 28, which was pulled because of -- pulled off consent because of three citizens who had signed up to speak. We'll go directly to those speakers. The first speaker is gus pena. Gus pena? Next speaker is lucio pena. Lucio pena? john banks johnson. Dr. john banks johnson. None of these speakers are in the room. Those are all the speakers that we have signed up. I'll entertain a motion on items number 10 and 28 together. Councilmember riley moves to approve items 10 and 28. Is there a second? Seconded by councilmember spelman. Any discussion? All in favor say aye? Opposed say no. Passes on a vote of six to zero with mayor pro tem martinez off the dais. Council will now take up item number 3, which refers to the maximum proposed property tax rate. We have a resolution to adopt a maximum proposed property tax rate that the council will consider for fiscal year 2010-2011, and also to set the date that council will adopt the fiscal year 2010-2011 property tax rate. Under state law a vote on the motion to adopt a maximum proposed tax rate that the council will consider requires a roll call vote. I will entertain a motion to adopt a proposed maximum property tax rate.

Spelman: Move approval.

Cole: Second. Mayor, point of order. Do we have to have a seven-0 vote?

Mayor Leffingwell: No. So a motion to adopt the proposed property tax rate 93 cents per \$100 valuation as a maximum to be considered for fiscal year 2010-2011, that motion is made by councilmember

spelman and seconded by councilmember cole. Wech a motion and a a second to adopt the property tax 93 cents per \$100 valuation and consider adopting occurring the fiscal year 2010-2011 and tax rate approval meetings in september. City clerk will call the roll.

Mayor Leffingwell: Aye.

Councilmember cole.

Cole: Aye.

Councilmember morrison?

Morrison: Aye.

Councilmember riley.

Riley: Heas heas.

Chaz.

Shade: Aye.

Councilmember spelman.

Spelman: Aye.

Mayor Leffingwell: And the vote is?

Six to one with mayor pro tem off the dais.

Mayor Leffingwell: Passes on a vote of six to zero with mayor pro tem mike martinez off the dais.

Mayor Leffingwell: For item 3 we also need to set the date that council will adopt the fiscal year 2010-2011 property tax rate. Proposed time and date is september 29th, 2010 at the austin city council chambers at austin city hall, 301 assess we could street, austin, texas. I will entertain a motion to set the time and date as proposed to adopt the fiscal year 2010-2011 property tax rate.

Cole: Move approval.

Mayor Leffingwell: Councilmember cole moves approval of the motion as proposed. Is there a second? Councilmember shade seconds. And all those in favor of this motion say aye. Opposed say no. That passes on a vote of six to zero with mayor pro tem martinez off the dais. Now we will take up item number 40. By state law since we have adopted the maximum tax rate that is above what state law calls the effective rate, we must set two public hearings on the proposed tax rate for fiscal year 2010-2011. Staff

recommends setting the hearings on monday, september 13th, 2010 at 9:30 a.m., and at 4:00 p.m. On thursday, SEPTEMBER 23rd, 2010, CITY Council chambers, 301 west second street, austin, texas. I will entertain a motion on item number 40 to set those dates and for the public arings on the proposed tax rate for fiscal year 2010-2011. Councilmember morrison moves approval of the motion as proposed. Is there a second? Seconded by councilmember spelman. Is there any discussion? All in favor of the motion say aye? Opposed say no. It passes on a vote of six to zero with mayor pro tem martinez off the dais. And a request by councilmember riley to -- to if possible wait for this afternoon to consider item number nine. So we'll go to item number 12 for a staff presentation.

Mayor, council, pa trish patricia lange with the city attorney's I'm. I'm here today to recommend the settlement of a personal lawsuit against the city titled dan huebner versus the city of austin for the amount of \$56,500. As we discussed in executive session on august fifth of this year, this is a car wreck case involving an a.p.d. officer. The plaintiff had personal injuries that required surgery. The settlement agreement generally contains the the city will pay dan huebner the gross stomach of \$56,500 in exchange for this payment huebner will dismiss his lawsuit against the city with prejudice and will release the city from any claims that were or could have been assert understand the lawsuit. The law department recommends settlement pursuant to these terms.

Mayor Leffingwell: Thank you. Any questions of staff? I'll entertain a motion with regard to item number 12.

Move approval.

Mayor Leffingwell: Councilmember spelman moves to approve the settlement in item number 12. Councilmember cole seconds. Any discussion? All in favor say aye. Opposed say no. That passes on a vote of six to zero with the mayor pro tem martinez off the dais. We'll now take up item number 17, which was pulled by councilmember riley to make brief comments.

Yep. Thanks, mayor.

Riley: I'm in full support of item 17 and i just pulled it to make a brief comment to point out its distance. Item 17 relates to a project at we've been working on for some time. And it's significant because right now if you look at our bicycle map, right now what you will see is a lot of green routes, the easiest routes up in the northwest area. You will also see a lot leading all the way from central city up to that area. But there's always been this 60 and there's been no good, easy route to get across 360. We've been working for a long time to try to address that to help our bicycle pedestrian staff. And we've got a solution figured out that design and developed by the city. We've been trying to get funding through campo. We've had some support throughout this process from a number of foaks, in particular lane wimberley, a former chair of the facilities infrastructure facility of the street scapes taskforce. He's advocated for this before campo. Campo has been fully in support of the project, but hasn't been able to get the funds yet. We're finally at the point where we now are able to fund this project through -- thanks to some cost underruns on a fully funded projects. So we are now positioned to get this project done. I just want to make sure everybody understands the significance of this -- of all this hard work on the part of our staff and community

advocates. We will now have green routes, easy, beginner friendly bicycle routes going all the way from south austin all the way up to the northwest along the 183 corridor. Thanks to this one item here. So it is a very significant item. I really want to thank everybody who has worked hard to get us here. And another indication that our staff, particularly our public works department and our bicycle pedestrian program are making great progress in fulfilling the mission set out in our bicycle plan. So I just want to thank everybody. With that I will move approval of the item.

Mayor Leffingwell: Councilmember riley moves to approve item 17. Is there a second? Seconded by councilmember spelman. Any discussion? All in favor say aye. Opposed say no. It passes on a vote of six to zero with mayor pro tem martinez off the dais. And those are all the items we have except for item 9, which we're holding for this afternoon. 30 briefing. On the austin energy rate development process.

I appreciate the opportunity to give you an update on the austin energy rate development process. We wanted to take this opportunity to brief you on all of the issues, financial issues that austin energy is facing and given an update on the status of those action plans. As you recall, the city manager directed austin energy to address these financial issues in a memo to you and to austin energy staff in april. It identified several challenges that the utility is facing, primarily on funding issues. You do recall the funding for power generation, maintenance and improvements of our utility infrastructure is a critical issue facing the utility and we need to address that in the future. The general fund transfer policy needs to be evaluated in conjunction with that rate review, and also give you some options on how to address that in the future. You know that we have increasing transmission costs related to the statewide ercot issues, and so we need to pass along those costs, recover those costs from our customers. We own four percent of the grid and we need to pass those costs along. And then as you're well aware, we need to address the new business model for this utility as we position the utility to be competitively number one in the nation and for future state of industry it's important to address that as we go forward as well. All of those were identified by the city manager as challenges that the utility needed to address, and he -- today we're going to update you on all of those, but focused on the response to those challenges, recall that he laid out a plan for two phase financial assessment for the utility. Phase one was dealing with a financial and programmatic review of the utilities, essentially a snapshot of about where we are today. Give the new general manager, larry weiss, the opportunity to have that information as he comes on board at the end of september. I'll give you a status report of that here shortly. Then with the resource generation plan, you also tied it with an affordability matrix. We'll give you an update on where we are with that development today as well. And then phase two was the financial assessment included the rate review and also starting -- addressing the new business model now as we approach that in the future. As I mentioned earlier, the first part of the phase one financial assessment was a financial and programmatic review led by our corporate cfo leslie broader, and I'll continue in my role as the assistant city manager as well. We wanted an independent look at austin energy's financial status. Austin energy staff is certainly assisting us, but with consultant review. We're looking at benchmarking and electric utility costs compared to other comparable utilities in the country. A review of the program to determine whether or not they support the achievement, really a prioritization of those programs to understand what's very important in the utility to continue addressing our long range goals. And then an assessment of the general fund transfer methodology. And what that is intended to do is look at best practices across the country and how other public utilities are addressing the general fund transfer methodology and begin to look at alternatives that

you all may consider in the future. Just a status report of that review process. The independent evaluation of the utilities financial position is ongoing. Work is essentially completing at the end of this month and we expect to have a report complete by the end of september. The other three elements of that are also ongoing and we expect to have that information prepared by the mid to end of october. Again, for the new general manager's use. And that's the benchmarking of our utility cost compared with other utilities in the country. The review of the programs as I mentioned earlier and assessment of best practices across the country. Those should be completed by the end of october. Moving on I'm going to ask mark dry fuss, austin energy's regulatory and governmental affairs, for the bulk of the remaining part of the presentation to give you an update on the affordability matrix and the rate review process that we're asking for council's support in an upcoming rca at the next agenda. Mark?

Thank you, robert. Members, I'm mark dryfuss, director of regulatory and government affairs. Today I will give you a brief update on the affordability matrix project, anticipating that we'll give you a full briefing later in the fall. And then update you on the process and overview of the upcoming rate review. You will recall that when the council passed the generation and resource plan in april of this year, the council required that the plan would not become effective until austin energy brought forward and the council adopted an affordability matrix. We've spent a lot of time at austin energy trying to think but thru what is this affordability matrix and how do we make it meaningful to the council and to the community. We know it will be used as a tool in making resource investment decisions and having dialogue at the council and at the community. We expect that it must campaign met triks or measures -- matrix or measures to have input into that dialogue and it will have some dashboard quality so that it's readily accessibility information, well organized and presented so that it's easy to use in the council and community dialogue. So our internal working assumptions as we're working through this process is first that it must be data tariff en. By that we mean reliable third-party data. It's going to be specific to different customer classes. As you know, we are benchmarking austin energy's rates and bills with other texas cities and this product, even though it may come in a dashboard type framework has to be backed up by detailed methodology and reliable sources. We plan to update it annually and it must integrate with a variety of related projects that we're working on including the rate review. As you know, when the utility brings new generation resources to the council greater of 10 megawatts, those will be reviewed with respect to this affordability project. To help us understand what affordability means to our customers and the community, we initially held this summer a customer engagement. We met with key accounts, small business, social services organizations, environmental representatives, low income advocates and some residential representatives. I should say, and we'll give you a little more flavor of this in the fuller briefing in the fall, that we found this customer engagement challenging. We asked our customers to discuss with us some specific issues on what does affordability mean and how do we measure it, and we found that our customers want to have a larger conversation about how we make decisions to benefit the community, and we're grappling with in the utility how to have an effective dialogue that addresses this affordability issue and the larger issues that the customers are interested in. We're dividing the affordability project into two components. One related to residential and one related to commercial and industrial. And I think we have a very robust product on the residential side. We are using as a measure of affordability what's called energy burden. So the percent of household income that's spent on electric service, and we can measure this because there's readily accessible census data from the federal government that allows us to calculate the energy burden for the citizens of austin and also for other communities in the state. And

with this calculation, with this data, we can also stratify our population into different income groups and other characteristics. Do they own a home? Are they renters? House, apartment? So we can get at this measure of energy burden and a bunch of different ways. I think this is going to get us a robust data set to have a dialogue across the community about the value of new resources and later later on in our rate review. As you know, we're also collecting data through a consultant to compare the bills of austin energy residential customers in communities across the state and we're also hoping to expand the analysis to look a little bit beyond just electric service, but also look at other housing costs. And we're also looking at comparing energy efficiency investments in our community versus other communities because we know that changes the nature of electric service in different communities. For the commercial and industrial classes, it's been a bit more of a challenge for us because there's no readily accessible database like this census data that we can get at to make measurements for our commercial and industrial customers. And in our conversations with those customers, we know that they view affordability really as a measure of competitiveness. If a customer is moving to -- if a business is considering opening a new facility, perhaps somewhere in texas or maybe anywhere in the nation, they want to know about their ability to compete and one of those inputs is their electric rates. Because of the challenge that we face in having a straightforward data set like the census data that we have for residential customers, we're looking at more of a multilayered approach to assess competitiveness for the commercial and industrial space. We're also doing bill and benchmarking for different types and sizes of commercial and industrial customers across the areas of the state. We're developing some austin energy specific data that we think will be meaningful for the customers. And then we're trying to develop some specific affordability metrics that are relative to these customers. For instance, the cost of energy used per square foot of office space, that type of measure. We are still in the ongoing dialogue with some of our commercial customers and we're anticipating actually that one group will bring us additional input later this week our next week. So to wind up, on the residential side, the work is well underway and substantially complete. We hope to have a draft report completed in september that we're going to roll out to me of these customer groups. The commercial and industrial report is a little further behind. We're just getting the input from our consultants on the comparison of commercial and industrial rates, but we hope to have something to roll out to our customers late in september and then hope to give you a full briefing on that project in september or october.

he was familiar with the consultants that we're bringing for you with rca next week, and his guidance to us was basically to get it going so he can hit the ground running when he gets here next month. This rate review is a complex and long-term project and effort, and in part it's complex because we have a number of multiple objectives. Objective, the one you're surely familiar with, we need to ensure the long-term efficiency of the enterprise, and as you've discussed in the budget review, we need to raise our rates and get some additional revenue around the fiscal 2013 timeline. The second objective is rate balancing. It's been 17 years since we last set our rates, and in those -- in those intervening years there have been a lot of changes in costs in programs and programs in the community, so we don't have a clear sense of what are the costs of serving the different components of our customer set. And that's a very important component of the rate-making process. You will hear a lot of discussion over the next two years about the cost of service process that we're going through. And thirdly, and robert mentioned this, the rate review is an important strategic effort in helping us to achieve the utility of the future, the new business duncan discussed with you extensively. Throughout this process we have to engage with our customers and

make that a productive engagement, and that's going to give us a lot of input to bring our recommendations to you and also help build and enhance public confidence in the city's decision-making and transparency. And so one of the key challenges is striking the balance among all these objectives. As I mentioned, a key step in the rate review is the development of the cost of service model. It's been, really, 17 years since we investigated in detail the cost of serving the different components of our customer base. This cost of service model will be tightly integrated with the rate design and all the scenario analysis and efforts that we have to go through as we prepare the rate case. But the cost of service model is going to be a tool for the utility that's more than just an input into the rate case, because we'll own this new model after the completion of the study, and we intend to update that regularly and that information will be available to the public. My co-lead on this project, Ann Little, likes to say that this cost of service model is going to be the true gift of transparency to our customers because on a regular basis they will be able to understand what is the cost of serving the different parts of our customer base in the city, a question that we're constantly being asked by our customers. There are two key components of this rate review that get to this issue of the new business model and that are fundamental to establishing the foundation to the new business model so that we can become the utility of the future. Duncan briefed you on the business model challenges faced by the utility, and he explained that our pricing structure is a barrier to the new business model, and that's because our energy costs and our wires and infrastructure costs are all intertwined in one rate, one charge, and when we go into the community and we sell energy efficiency products and we promote solar homes and distributed generation and these other new efforts, we offset energy sales, which is the intent, but we also fail to collect the revenue that we are expecting for wires and infrastructure. So one of the key steps in this rate review is we are going to differentiate or unbundle the costs of providing generation from the costs of providing infrastructure. That's a financial separation that we'll do. Then that financial separation allows us to restructure rates in a way to differentiate the pricing of energy from the pricing of infrastructure. One of the first things we'll be doing when we bring in the rate design and pricing consultants is sending them off to do a huge research project on what's every innovative rate design that anybody in the country has ever thought of, how do they work, how do the incentives work, how would the customers respond to them and do those work and which of those can we think about for our situation? Another issue is that the in-state of restructured rates may be significantly different than the rate structure that we have today, so we're thinking that we may need to develop a transition plan to implement the rate structure in steps overtime so we have a grad ramp-up. And just for working assumptions, we have a assumption that we will have three rate restructurings in an incremental basis over a six or seven year period. That's just our internal working assumption. We also throughout this period plan to have an extensive public engagement process. In our thinking about the public involvement plan, it's our intention to start narrow and deep with a select and targeted portion of the community and gradually expand that in scope and try and bring in the largest component of the community that we can over time. The first phase of that is really kicking off now, but will formally kick off in November, and in that phase we will conduct outreach to targeted, engaged constituencies, those still weanses who are already -- constituencies who are already engaged with us on affordability and other issues. We already have in Austin energy advocates of low cost energy. We plan to have a dialogue about rate issues, and we're establishing a public involvement committee to give the staff and city manager advice and input on how we should design the rates and bring a rate package to council. That is modeled after the very successful Austin Water public process that they used, where at the end of the process they essentially had buy-in from all segments of the community and their path of

rate changes was largely uncontested. Phase 2 of the public engagement process is to expand out to a broader set of constituencies. The neighborhood councils and other groups, where we can get at citizens who are interested but not yet engaged and then finally, in phase 3, we will reach out to the broader town hall-type process to reach out to the largest possible audience. And we think that this staged, stepped process will allow us over time to reach out to the -- to build some momentum, to get the discussion going and eventually allow us to reach the broadest set of the public. Some other components of the communications process is that we plan to use the web and social media generously throughout the entire public engagement. We took some time earlier this year to go to the web sites of other utilities who have been involved in rate-making issues over the last few years, and we saw some really thoughtful and well-developed web sites, and we've copied all the good ideas that we saw and we currently have a web site under development, which will be rolled out, probably, in the late september time frame. The web site will also be a location where we can organize customer outreach, where all our documents -- documentation will be housed, public inquiries will be recorded and made public and blogs, what people have come to expect. We intend to have regular briefings for the electric utility commission and the city council, and then that will lead up to formal hearings before the electric utility commission in the spring-summer of 2012, followed by council approval in the 2013 fiscal year budget. This slide just gives you a high-level overview of kind of the staging of the process. We're in the planning phase right now. The development of the cost of service model will be among our top priorities later this year and early next year. We plan an extensive public engagement process, and then ultimately we would expect to bring the package to you with the budget in the summer of 2012 for your adoption in september of that year. Now, next week we are bringing you an rca for approval of consultants to assist us in this engagement. I guess I'd say that the basic reason for the need for the consultants is it's been 17 years since our last comprehensive rate review. We have a great staff working on this project, but they don't have a lot of recent experience in rate reviews, and we're a little bit thin in that regard, so we need some added depth, and this is also a lengthy process. Just your approval will be about a 26-month process leading up to your approval, and we need some continuity over that period. We also know that the cost of service model and the ordeal of innovative rate designs and assessment of those designs is a big effort that will require more expertise than we have in-house. It's also, as you well know, a new era of public engagement across the city. We learned a lot of lessons from the public engagement of the generation plan. We're learning a lot right now from the public engagement that we're holding on the affordability project. We're trying to learn those lessons and adapt our public engagement, and one thing we know for sure is that our public is very eager to participate and we want to make that as productive as possible for everyone. So the consultant engagement that we're going to bring for you in the rca next week has three separate components that we have creatively named component a, component b and component c. Component a is the cost of service and rate design where we will develop the unbundled cost of service model, do the research on alternative rate designs. Those consultants will also be responsible for participating in the public involvement process, appearing before the euc, city council as appropriate. We have secondly in component c a public engagement consultant, who will manage the public involvement committee that we're setting up to advise austin energy and city staff. They will help organize the constituency meetings, town halls, et cetera, and assist us in media relations. And finally component c is the financial consultant who will assist us in research and analysis, just because we need added depth in financial accounting, and they'll also review the cost of service and the rate design information and help us develop forecasting and scenario tools. So just to summarize the status, right now we are busily in project planning, and we

are preparing for the consu to come on board and our main focus this fall will be on the cost of service study, which we hope to have completed early next year and kicking off the public engagement. Then in 2011 we'll be deep in the public engagement and focused on the review of innovative rate designs and the assessment of those designs and thinking through how that affects customer behavior, customers who utilize our services. And then finally in 2012 we'll expand out to the broadest possible public engagement, and we will be preparing our filing package. We'll take that to the electric utility commission for their formal review and then to you for review and adoption in the budget. Council action would be expected in september of 2012 and the new rates would be effective beginning october 1. And that's what I have for you today. could you explain the appeals process to the public utility commission?

Yes, sir. The city council has original jurisdiction over austin energy's rates, but the public utility commission, under state law, has jurisdiction on appeal. The way the appeals process works is that a petition signed by 5% of the retention account holders who are served by austin energy but live outside of the city limits, filed within 45 days of the council's adoption and publication of the rates would bring the rate review before the public utility commission for appeal. Now, the public utility commission's authority is only jurisdictional over the rates outside of the city. So you could imagine a scenario where we were contesting before the public utility commission whether we would have differentiated rates in some way within the city ap outside of the city. so presumably that is one of the -- one of the purposes of the cost of service study, is to make sure that in the event of an appeal, you have a rational basis for the various rates you've set?

That's right. We don't know whether we will be appealed to the public utility commission or not. We're hopeful that we can bring much of the community together in agreement, but we have to be prepared in the event that the case is appealed to the public utility commission, so we're operating internally as if it will be appealed, and we know that an appeal before the public utility commission, that they will apply certain legal standards and have certain expectations about the way we do our accounting and bring our data forward so we are driven through the entire rate review process to follow those procedures that we expect the public utility commission would expect from us in such a filing. Approx approx imately how many customers is 5% outside of the city of austin?

That's about somewhere on the order of 2500 residential customer signatures. council member spelman. thank you, mark, for your extremely informative presentation. Again, interesting anomaly here, which I was puzzling over and you can help me understand it. I'm looking at your graph on page 18, which is the rate review timeline. And starting today, in august 2010, we're getting to see council review in september of 2012, so this is about a two-year process. And there are -- you mentioned, you know, the a, b and c part of the process.

Yeah. the a part of the process is prepare a cost of service model starting in september, and it looks likening in december, about four months to do the cost of service study?

Well, I think the first four months is the development of the model and the initial testing of the model. Then throughout this public engagement we hope to really get the members of the public to grapple with some of these issues. Okay, these particular costs, who's responsible for those costs? Do they go in this bucket

or do they go in that bucket? So the population of the data into the cost of service model will take some time. We'll hope to work out all those policy issues and then following the completion of the 2011 test year, because the 2011 year -- the 2011 fiscal year is when we're collecting the actual data on which the revenues will be based, so when we complete the collection of the data from the 2011 test year, the cost of service model will be ready, all the decisions will be made and we can just dump in the data and move forward from there.

Spelman: okay. So basically we're setting up the templates now.

Yeah. collecting the data over the next year and applying different assumptions to those templates to see what kind of rates actually spin out of that.

That's correct. to what extent, historically -- we haven't done this -- what is it, 17 years?

I believe that's the number. so we can't speak from experience on this. Only people who have been around for a very long time could, but to what extent are the assumptions that are required to make those rates obtained from the public and to what extent can they be obtained from generally accepted accounting practices or practices of our utilities?

Well, it's a lot of all of those. I think there are -- as you're going through the accounting codes that we're going to have to follow, and we have to follow a very structured federal accounting code system, some of those things will rather simply and directly fall into certain buckets. This type of transformer is used to serve certain residential customers, this type is used for industrial. But there's a lot of issues crossing that art versus science line, and resolution of those issues will look to best practices, what the public utility commission has approved in the past and also be informed by this public dialogue that we're initiating. so if -- we engage the public and the questions look like they could go either way, what we're looking for is a rational basis for baby cutting the baby in half. What assumptions are we going to make, how are we going to assign different costs and we're looking for, really, kind of a technical judgment that we're asking the public on this question. Other utilities that have gone through this before, my gut reaction is it's going to be difficult to engage a lot of people in that kind of a technical issue.

Well, you know, and that's why I said in the overview of the public engagement process that we want to go kind of narrow and deep to begin with, and then broaden out in the community. So we hope who engage a smaller set of very engaged customers who, you know, we work with in a kind of collaborative basis to really grapple with these issues and give us advice, and ultimately we'll be making the decisions to recommend to the electric utility commission and to you, but to give us advice on how we do that -- those things where art crosses science. can you give me a sense, based perhaps on the practice of previous utilities who have gone down this road, public utilities who have gone down this road, as to how many people you're going to be contacting? What's the intensity of the participation process going to be like?

Well, we have a variety of customer groups, I'd say, some of them kind of formalized groups that you're familiar with, some just loose alliances of citizens and customers who are coming together and talking to

us about a variety of projects, how to implement the generation plan, what should be in this affordability project, what should be in our competitive matters resolution. We know who those folks are. They're very engaged. We plan to work with them throughout this entire process. We also have an existing low income advocates group that we meet with on a monthly basis, and, you know, low-income issues and figuring out how to bring the most value to our low-income customers is one of the keys to this rate review. So we plan to communicate with them on a regular basis. And also I mentioned we want to develop this public involvement committee following the successful model that the water department used and get a smaller set of engaged customers who we meet with on a regular basis, rolled up and really grapple with those issues, and through those parts of the outreach plan hope to be able to get customer involved in giving us advice on these allocations. so there's some people we know are going to be involved and there's some people we don't know whether they'll be involved or not. We'll just have to see what happens?

I guess that's one way to put it.

Spelman: okay. Thanks. council member morrison?

Morrison: thank you. This is all really great stuff. One of the things I'm grappling with is how are we going to be integrating or are we going to be integrating our affordability matrix and what comes out of that with the cost of service and the new business model? It seems like all three of those are related to each other.

Well, let me start with the new business model. I think, you know, we're doing a lot of work on the new business model already, on the technologies and the products and the programs, but the rate change kind of lays the foundation for all those things to take off. So we're figuring out how are we going to bring electric service for electric vehicles to customers, but before we can really successfully do that and assure that the utility will be successful in maintaining revenue over time, we have to do this unbundling and rate restructure. So I think that sets the framework for the future success of the new business model. The way I'm thinking about the relationship of the affordability matrix to the rate review, if you think about what I said about residential customers, we're assessing the energy burden, the share of the household's income that is spent on electricity, and we've got data to measure that. It's 8% or 10% or 3% or 20% for different -- different types of customers and how you cut up the data set. So I think we've really got something to look at when we can say this rate change the change the rates of these types of customers by x percent and that changes the energy burden on a household by this much and so how should we be redirecting our low income programs to address this component or that component. So to me that's the way the affordability project will integrate with the rate review. so you're saying we start with the unbundling and the business model. Then we look at the cost of service and how we're going to deal with the rates and how it will affect the energy burden.

Yes.

Morrison: okay. I'm just wondering if the affordability matrix doesn't have to have some assumptions in it about the business model. Just seems like there's a circle that --

what we have right now is really kind of cost-based, what are customers' costs today. You know, we've gotten some input from customers that we've engaged with that were missing an opportunity to be forward-looking with this affordability project, but we're really struggling with how is it that we do that. And I think the way that we do that is to get this data level set and then bring it into the rate review so we can discuss where the changes are. and the bottom line for the affordability matrix is to help us make decisions, ongoing decisions, about resource investments?

Yes. So you'll see -- we bring a new resource to you. We estimate what the long-term costs of that are, then we could run it through the census data and say the cost of this project would raise a bill by so much and that raises a household's energy burden. Is that appropriate? What do you want to do on a policy basis? and speaking of the census data, are we going to use the new census data or will it be set up so integrate that when it's available?

Right now we have data from 2008. I can't think of the survey -- the american community survey.

That one.

Yeah.

And I believe we can replicate the analysis with the new data sets as they come out.

Morrison: great. Thank you. Anythi anythi ng else? Any other questions, council?

All right. Thank you. thank you very much. Looks like it's going to be an exciting couple of years coming up for the austin energy. Council, we don't have any more items that we plan to consider until this afternoon. I don't want to get into executive session, there are no items we can cover in 15 minutes. So without objection we will go into recess until our 00 noon citizens communication. Do you object? . twine 2010 blank twine ten 2009-2010 did he suesa d'souza test test tammy tammy wtp4 we are out of recess, so I'll call this meeting of the austin city council back to order, and we will begin with our citizens communication. The first speaker is ann servin. Ann servin? The topic is educating -- city issues, educating you. I guess that's us. Welcome. You have three minutes.

Bon jour.

all right. Now that I got your attention I'm here to speak to you about going against arizona and not having the back. This is the second in a series of educating you about the definition of illegal. if you remember the definition of illegal, it's the same in every language, and spelled the same in french, english and spanish. I would like for you to explain to all the families of people who have been killed by drunk drivers while we're against arizona. I've surveyed all the articles and almost all are against illegal immigration. Those who are not as soon as I give them information about ss they change their minds. Now that you tell me that, i never knew that. Basically the same thing, note, I didn't say anything about legal immigration. To my knowledge I didn't surround say any illegals. Do you know why illegals say they work harder than americans? This is not a rhetorical question. Anyone? Anyone? That is because they broke the law. They

are illegal. They have to work harder, otherwise there would be no reason to hire them or once hired to be kept on. I've spoken to you in french, italian, german, spanish and hick. I hope you got the message. If you didn't, here it is again. You-all are some good actors. I've got the act down to a science. Quit messing up or expect more. Gentleman mendoza. My name was mispronounced last time so I have to give my two middle names to make it easy. It was thank you today for saying it correctly, because it was spelled correctly on the agenda. My colleague vickie couch was supposed to be here today but called in yesterday because of an emergency. So I'd like to know why you don't have stand-by. Tell me? why we don't have stand-by what?

Yeah, so if somebody doesn't show up. it's not in our rules.

Okay. Well -- the main reason we don't have stand-by for citizens communication is because state law requires that this information be posted 72 hours in advance of the meeting.

Okay. Because I called city clerk and I said I'd take it up with you-all. See you next time. Say la vee. That's life. thank you. We're going to skip john button at his request. He'll go last. Next speaker is vickie couch on city issues. She's not here, correct? Next speaker is ronnie reeferseed. Ronnie reeferseed. Not in the chamber. We'll go to jill rowe, topic is the jollyville transmission main. Welcome, you have three minutes.

Thank you, mayor leffingwell and council. My name is jill rowe and I'm here to speak about the jollyville transmission main. Go to the next slide, please. Thank you. I wanted to talk about some fatal flaws, in particular the report that just came back from some of your core drillings showed that water was hit 26 feet down from the current surface of the precipitate. Precipitate -- property. What you may not realize is that is not only shallow but there's 21 feet of fill on the precipitate are property, which means water was hit by natural granddaughter. This was originally floodplain and fill was introduced to the site to bring -- and the road was relocated off this property to bring that out of the floodplain, and in particular if you then take the fill out, which by the way city code says four feet of fill allowed on a piece of property, then you're down not only in the floodplain but in the critical water quality zone. So I also raised the question, might you be going to build not in the water transition zone but the critical water zone. I put my real estate development hat on because as you know I'm in real estate development, brokerage and development, when I put that hat on, people in our business, someone if someone gave a site and said before your building here, and by the way the way before we put the 21 feet on the property was in the floodplain. Oh, and by the way, the flood was put there some time ago, we have no idea what's in it, and build on that, most people literally if the site were free would not build on it. I really question whether or not this site is suitable for anything, whether or not it's even suitable for this project, frankly anything. And anyway, the other thing is the studies that you've done looking for critical environmental features, you've looked for it in the 21 feet of fill but that's frankly irrelevant. If you're looking for critical environmental features I would think the correct way to do that is to study the property which you can't do until you remove the 21 feet of fill. So if you do plan to fill remove the 21 feet of fill and study the property and see what you're actually left with. Also, I've got a plat that you-all may want to see and how this issue raised to me. I was with the property owner, he showed me the survey, and I noticed there was a fill easement underneath the road. So as you start to then develop you may -- the whole area is put on fill, and so with the dynamiting and

blasting that are planned, whether it becomes the primary site or even if it's the tunnel boring machine exit, which will be somewhat reduced impact, that's still blasting. To be putting blasting near 21 feet of fill, puts the neighborhood and the street all in jeopardy. Let's see. Second point is it appears that information was -- okay. All right. Thank you. Basically it appears that information was withheld from the council regarding the shaft and the contract that you all signed with black and beach has not been upheld and we would ask that you -- thank you. Next speaker is joy rowe. Joy?

By the way, it's rowe. oh, excuse me. Pardon me. Joy rowe and her topic is jollyville transmission main and canyon vista middle school.

One of the big things that really is a problem with this is that when we get to school and there's all these trucks going by and stuff, well, kids are going to make a lot of games and stuff out of them, which is going to be a big distraction and the teacher will be complaining about them and everyone is going to be talking about it and when people actually do get to the learning, you know, aspect of things, I mean, yes, we will be able to hear teacher but what good does it do if we can't concentrate on what she's saying? I mean, even if it was six, twelve months that's still a big learning setback, and -- I mean, would you want that if you were still in school? I mean, it's kind of getting to the point where we're getting to a certain grade and we're going to be about nine months back and then it's just going to hit us all. Also, this isn't just a school. There's also a public pool here and so it would also be a big nuisance to a public pool and our only neighborhood pool. And there are also -- we also have tracks and stuff, and I mean, we're outside for about an hour. Imagine if someone clicked a pen to your ear for about an hour. That's pretty much what I guess it's going to be like. Thank you. thank you. Next speaker is. zoe rowe. Zoe rowe. The topic is jollyville transmission main. You have three minutes. You might want to pull that mic down close to you. There.

Do you know what's important to me? Hi, I'm zoe rowe and I'm here because I don't want to just sit back and watch all my quiet places just be destroyed by noise. Like club beach and after school care, and it's right next to the big blue water tank that you guys are planning to build by and also it's the only after-school center that's really close to our neighborhood. Also the creek. The creek wouldn't be the creek if it didn't have the animals and the animal sounds, and it would be sad to go to the park without seeing if you could see fish or little tad poles and, you know, all that good stuff. And also my sister and I go to the creek and we view -- and we like look for fish and stuff, and we walk on the creek and just squish our toes in the mud. And also, the animals, like the bunny in the picture and, you know, it would just be hard to go there and not see all the wonderful creatures. And what's important to me is our neighborhood and my quiet places being destroyed. Thank you. thank you, zoe. next speaker is desmond d'souza. Topic is jollyville transmission mains, an honest view of alternatives. You have three minutes.

Thank you. I'll go quickly through this. You'll have a handout that you can follow up on if you want. I'm going to skip the first serks, which is the high -- section, which is the hybrid route and go through a set of claims we have seen from austin water and ask your help to explain these claims because we are totally unable to do so ourselves. Number one, this is from greg navarro. Dated august 13. This is our response to you in response to the hybrid 260 proposal. In reading, auw began community outreach in august of last year. That's probably true. There's a couple of details missing. This next slide, I apologize for it

looking so messy. Email from aaron gray to the austin water team. They had a meeting blank to do with the community outreach, and these are excerpts from the email. Route alternative station, remove shaft locations. Environmental station, remove shaft locations, remove creek site. This is a problem. If you call this community outreach I'd like to understand how removing the single most disruptive piece of a tunnel from what you show to the public can be considered community outreach. Also on the same claim, this is a document which describes the scope of services between austin water and black and leach. January 2009 it describes, defines, four meetings with the community required before the draft preliminary engineering report is issued. That report was issued in november of 2009. To the best of my knowledge, not a single one of those meetings happened. If these are contractually required before that date, did somebody decide to remove them? If so, who and why? Sorry, I skipped a couple there. The next one, this is in response again to the hybrid 620 proposal. Both alternative routes are longer resulting in the need to acquire easements from up to 40 private parcels. Therefore let's not bother looking at this any further. Well, here's a fact. The austin clean water program acquired over 800 easements at the rate of somewhere between 80 and 200 easements per year. Please explain to me how 40 easements is a reason to throw out a proposal. Next one, this one claims there are several environmental concerns that prohibit the hybrid 620 route from being feasible. I won't go through the details. I'll just point out bullet no. 1 in our response. The 620 route is part of austin water existing plans. If it's part of your plans, it's got to be feasible. Thank you. thank you. next speaker is ashley d'souza. Ashley d'souza. Topic is spicewood springs shafts from a canyon vista middle school child. Is that mic working? Okay. Welcome. You have three minutes.

Okay. My name is ashley d'souza. I'm 11 years old and I just finished fifth grade at laurel mountain and I'm going to sixth grade at canyon vista, and I have something to say, and that is that we kids don't want the shaft either. So I'm going to talk about how the shaft would affect the schools in the area and the kids over there. So first I'm going to talk about laurel mountain. At laurel mountain we have early's wiel life early's -- wildlife preserve. early is a fifth grade teacher at laurel and he's really good. The -- this was built by early, so the pictures we took from the preserve from cameras we put up, so the bottom left is the golden-cheeked warbler, and the middle, the bottom middle, is martin at night, and then the bottom right is a butterfly, and the top right is a rabbit. So it's -- everyone at school likes to go to the preserve because it's really nice and it's quiet and you get to see lots of animals, so it would be really terrible if something messed it up. But -- so up on the top left of the map there's the shaft, and on the bottom right, that's the preserve. So it's -- it's less than a mile from the shaft to the preserve, so the preserve would be affected by it. And if the animals get scared away from the preserve, where would they go now? Okay. Now I'm going to talk about canyon vista. So the top left picture is two kids studying, and then the right -- to the right of that is a big noisy truck, and if that would happen -- that would happen every five minutes, which would really disturb the learning going on at school, and it would be going -- it would, like, mess up the learning and it would distract all the kids and the teachers, and it would be going on for all three years of my middle school years. So that's not good. Why was this hidden from us? Oh, mighty city of austin, please fix this problem! Thank you. thank you, ashley. Tami kagy, and correct me if I mispronounce that. Water treatment plant for jollyville transmission main and proposed shaft site. Welcome. You have three minutes.

Good afternoon, my name tami kagy and I'm here on behalf of bull creek ranch condominium. We are united in opposition to the proposed shaft site across the street from us. Literally 50 feet fence to fence. The shaft is part of the wtp4 jollyville transmission main project. My goal today is to show how different the proposed shaft site is from other sites, the erroneous assumptions made by black and beef and the potential risks associated. Data used to calculate this slide came from austin water utility and is in the backup. The slide compares 11 local shaft sites. Based on the proximity of the homes, the volume of the shaft itself and the volume of excavation from each side, the pard site tops them all. None of them are as deep or wide, none are as the pard. Given the magnitude the promg is expected to take two and a half years to complete, high truck traffic, pollution, severe noise, declining property values and loss of home sales, which we have already seen happen. To condemn residents to these conditions for such an excessive period of time is in my opinion unconscionable. The next two slides highlights statements from a black and beach report that given us more reason for concern, either because they're clearly inaccurate or because they allude to delays, cost overruns or worse. One erroneous statement is there are no homes adjacent to the park site, which i can attest to is false because I live in one of these homes. Yet this inaccurate assumption is part of the reason this site scored so well in the report. Makes you wonder how valid the rest of the report is. Another is that no construction will take place in critical water quality zones. The latest site layout shows the water tank to be in the water quality transition zone. This is a violation of code in the bull creek watershed. Black & veatch promises no encroachment on private property. However trucks have already used our private road on several occasions to turn around when they missed the pard sites. There will be no way for austin utility to control this. Finally it's supposed to be restored to the original condition, but a 40-foot dam terry cap on the surface says otherwise. Black & veatch states that working conditions slow the construction. Per rudy garza they're bus times, but if the 2014 deadline is inflexible, how is this satisfactory site and route invie labl. One to three acres are needed for stage,s a small shaft site could negatively impact struck. The pard site is less than an acre so it seems no impact is improbable. What happens if it's contaminated on or a spring is height. The flow rate from the spring could flood the area but there has been no announced mitigation plan to address these issues. In closing, a project of this magnitude doesn't belong in anyone's neighborhood. The risks are too high and the impact too great, and i ask you to please vote as if this was your home, your neighborhood. Thank you. thank you.

call ronnie reeferseed -- I called him before. You have three minutes.

Thank you, sir, and like the mayor just said, yippie, I'm ron I reeferseed, sinking the so-called end of combat operations in iraq two weeks early today. It's a totally deceptive delusion of our barack obama, contend union board, gee whiz bush in black face, temporarily transferring troops to kuwait is not a withdrawal of forces. It's only one more nugget of hogwash from so tear on, who's borrowing his name flown hogwash, clinton trader, the anti-christ, barry hogwash sotero, is up to blackmail. A yu genesis? A yu genesis? What does that mean. Ask a gazillion billie the killer gates or slimy ted turner. Yu genesis is somebody, anybody, that thinks that any level killing fellow humans is justified. Okay, somehow by environmental challenges from the president and accounted for adult population big time is killing those babies, those invent babies, for any reason at any time, it's not their fault, anytime. Killing babies is pure evil, never juferrable. I wonder why people hate us around the world. Hmmm. Since row v wade the ongoing american holocaust stands at 50 million dead babies worldwide now thanks to the clintonian

policy of reducing population -- deception financed by billie the killer gates. It's happening here. Act accordingly, call toll free, aaa 1414. For weekly updates from george washington. And thomas jefferson, channeled through ob-gyn ron paul, 50-year husband, five-year champion of sound economy, enemy of costly interference into the business of other nations. Whoever thinks this makes sense and how. , nasa, national security, right now an intelligence ap ra tif at my apartment com plengs, the magnolia court apartments. Within 24 hours after I post the public discussion board on three locations, including this powerful flower above, they're vandalized, stolen, so our neighbors don't know about the guarantee of their families. Who wants this? Only pitiful sociopaths who want to deny that we -- look, we all need access to more information and we can call 974-2250 to inform our mayor, we demand no more toxic sludge in our water. Please. And tell the mayor to cancel their unconstitutional hogwash schemology to deny my first american -- first amendment rights to speak. They got a whacky plan that I can only do it one out of every four meetings. Anyway, thank you. thank you. Vickie couch still not here? Vickie couch? Okay. John button. The topic is corruption in the animal -- excuse me. Excuse me. Corruption in the animal control department and the judicial system. You have three minutes.

Yeah, your package contained detailed information of what I'm going to get on today. There's pictures of the dog that I lost, not the dog that was killed. Let me get right to the point because three minutes is not very long. I had a dog named rufus that was wrongly put on the dog list. The way this was accomplished, robert robeless, animal control, went behind my back and made this lady think she had to file dangerous dog on me. The lady admitted this in the tills hearing to judge kenneth petuchi, and he should have thrown the thing out but he didn't. So the dog got labeled dangerous. Well, this dog was shipped by town lake -- chipped by town lake animal center center, and later on i reported I had lost the dog on a vacation trip to florida and I no longer had the dog. I was heartbroken because i had had the dog for nine years. I went to call around to find another australain black shepherd, which is what he was. I located one in canyon lake, and I had that dog for about seven months. I live in san marcos, I came up here to check my veil and the dog got stuck in a drain system. Fire department had to rescue him. Fireman got nipped when he had open finger gloves and a skunk was in the tunnel. Animal control showed up. He had a little nip to miss finger. I put him in quarantine over there in san marcos where i live, and this is where the real hideousness and corruption of the animal control department started. Upon learning that -- april mar upon learning I had a black australain shepherd, began to investigate, when she found out this dog didn't have a chip in it from town lake, which she was the one who asked me could they place it and she knew it was placed in there, she denied the chip had ever been placed in there by the animal control department, and she got the judge to go issue an order to go pick up the dog, brought him here to austin, gave me a subpoena, brought me here to austin. Judge eric carey, he ran what I call a hang man's tribunal and they sent us that dog to be killed. This dog did not deserve to die. Rufus, the dog that was lost, should have never been put on a dangerous dog list. It was illegal the way they did it, and kemple the dog they killed did not have a chip, because april mar denied the chip evidence that she knew was there. It allowed them to kill the dog. She said it looked like the dog. But I tell you what, I have never seen such corruption ropeless and april mar. I've seen her lie, distort reports. She described the fireman's injuries as serious and three puncture wounds to the hand. She made the fireman make the statement three puncture wounds. He had a little nip to the finger. She did the same thing on the original thing they did to get him on the dangerous dog list, which was an incident where he was nipped. That will do it for now. You have that information there. I had I would just like to see temple waited for 39 days, just wanted to sleep on his

bed, play with his geeky toy and beg for his treats, but he didn't come to come home -- didn't get to come home. He was murdered by your employees. thank you, mr. button. Sorry for your loss. I'd like to recognize council member cole on a point of personal privilege. mayor, if I have any comments I'll make those after executive session.

Mayor leffingwell: okay. Then without objection the city council will go into closed session pursuant to 071 of the government code for consultation with legal council to take up five items, item 43, concerning emergency responders for v rhoda may cer. Item 44, concerned harold piattv city of austin. Item 45 concerning nathaniel v leonardo quintana and the city of austin. Item 46 concerning save our springs alliance incorporated v city of austin. Item 47 serng save our springs notice of intent to sue for violations of the endangered species act. Is there any objection to going into executive session on the items announced? Hearing none, the council will now go into executive session. Announcer: What if a disaster strikes without warning? What if life as you know it has completely turned on its head? What if everything familiar becomes anything but? Before a disaster turns your family's world upside down, it's up to you to be ready. Get a kit. make a plan. be informed today.

Mayor Leffingwell: We have out of closed session. In closed session we took up and discussed legal issues related to items 43, 44, 45, 46 and 47. No action was taken. We will begin with item number 9, which was leftover from this morning. I'll recognize councilmember riley.

Riley: Council, as you will recall, item nine relates to the proposed wall around the seaholm substation. We had some discussion on that I believe it was two weeks ago. And we postponed action on it for downtown commission to consider it at their meeting last night, which they did. First by way of context, I want to reiterate, this is a very significant project. What we're talking about is a 12 to 25-foot tall wall surrounding an entire block within the seaholm area. And this is specifically -- it will be right between the seaholm power plant and shoal creek, and then between hopefully a future bicycle-pedestrian plaza in the third street right-of-way. And then the -- our new central library will be immediately to the south. So right there in the middle of this emerging district. We will have an austin energy substation occupying a full block and surrounding it will be this wall that's 12 to 25-foot high. And that's the subject of this arts in public places project. There has been a process through the aippa program to develop a proposal for that, but my sense was that there really hasn't been that much public discussion and input on this given the scale and significance of the project. So I felt like that it did warrant consideration by downtown commission. Which includes representatives from a number of groups with an interest in downtown, including the design commission, the arts commission, the parks board, the planning commission. There was a very thoughtful discussion at the downtown commission last night, but i especially want to commend commissioner chris shore for his hard work on this. I thought he raised some very interesting points and considerations about the approach represented by -- presented by the response that staff is recommending. Ultimately downtown commission pass add motion that said they endorsed the artist selection process and recommended that council authorize staff to begin contract negotiations with the top ranked team as the next step in the collaborative design process. The commission also recommends that the project objectives be expanded to include to the extent possible green elements both from a vegetative and environmentally conscious perspective as well as adherence to the urban design guidelines for austin. The commission did not have the opportunity to consider the respondent's

submissions in detail and was not allowed to review the images the artists provided to convey their approaches. I have had the opportunity to review those submissions in detail and to consider both the request for qualifications that was issued and the matrix showing the review team's valuation of the responses. I'll say that in reviewing the request for qualifications, I was somewhat disappointed to find that while they did set out some priorities and criteria for evaluation of applications, it didn't have anything about sustainability around this Austin energy substation. There was no mention of renewable energy, recyclable materials or anything else related to Austin energy's mission or the presence of the Shoal Creek Greenway on one side of the substation. Nor did it include any mention of the Urban Design Guidelines. It did include as a consideration for review of applications the ability to design artwork that is sensitive to social, environmental, historical and/or other relevant context. And it also included the ability to translate artistic concepts into materials that are appropriate for public space. So then in looking at the evaluation matrix, there are a couple of criteria that relate to those considerations. Most important is item 8, ability to design in a context sensitive manner. And I'll reiterate that. Ability to design in a context sensitive manner, which I consider especially important given the context we're talking about. We're talking about a very significant, emerging, urban district that -- and this project will play a very large part in defining the identity of this district. On that one criteria, the top recommended artist actually had the lowest rating of all of the top five finalists. The top recommendation certainly had -- was a very competent artist and with a very qualified team, but actually on the subconsultant firm's comparable project experience, the number two ranked team actually scored higher than the number one ranked team. So on the -- on comparable project experience, the number 33.78 for number one. On context sensitive design, number two 78 instead of 7.22. There is another criteria for team structure and project approach, and on that one the number two ranked team came out slightly lower than the first one, and I have to say just based on the discussion at the downtown commission last night, I have to respectfully disagree with the review team's assessment of where they put the number two ahead of number one. Because in reviewing the submissions from the artists, what I noticed was that the number two ranked team actually submitted a project approach which actually included elements that were very similar to those discussed by the downtown commission last night. The downtown commission considered things like green walls with -- covered with vegetation. And in fact, the second ranked artists in their presentation, they actually included images showing some vines growing over those walls. So they got the same -- they got the concept that the downtown commission had in mind. So I was very encouraged by that, and impressed with the subconsultants' comparable project experience as well as their ability to design in a context sensitive manner. So for all those reasons, I would make a motion on this, if the council is ready --

we do have a speaker.

Okay. I'll hold off.

Mayor Leffingwell: If you would hold that thought. Is Stan Hoss --

Mayor Leffingwell: I think I should know that. You're my nominee to the -- you're my nominee to the commission. Welcome, you have three minutes.

The commission did review the process. Thank you, that's better. The process for the selection of the proposed team at this project. And I come before you today as both a member of the downtown commission and also as an architect who has gone through this very objective rfq process in the past. Both successfully and not successfully. I find that although in this case an artist-led team and the artistic qualities of this process may get into a subjective analysis, the truth is that the entire multidisciplinary team that is a part of the recommended team for designation is group, some of whom I know quite well personally, a local firm, hart specman is the architectural firm, architectural engineers clab ta river, chuck naif, who was my structural engineer on the long center for the performing arts, and christine tenick, the architect. I feel the process has been somewhat confusing in that a designation of what some concepts might be may have put off certain members. I know certain members of my downtown commission. It personally did not upset me because i believe the process is just now about to begin. Ainld ask very respectfully for someone who has gone through this process, who has seen the objectivity of that scoring system, and as I've said both won and lost it, I would recommend that you not consider councilmember riley's motion, but that you move forward in beginning negotiations and authorizing that contract with the recommended firms. I think that it speaks well to the numbers of professionals both within the city and without who participated in this evaluation process, and I think there will be plenty of time in a traditional austin collaborative way to influence the design of this very important downtown object. Thank you. I'm available for any questions.

Mayor Leffingwell: Thank you. Councilmember riley.

Riley: And i respect and appreciate my friend sam's comments. I will note that he did make a motion at the commission last night to move forward with the recommendation as it stood, and that motion failed. And the whole -- the commission as a whole voted instead to recommend that certain elements be added for consideration in the design process. So I would make a motion in light of that and based on my review of the submissions and based on the criteria set forth in the rfq and the material submitted by the artist, I would move that we direct staff to enter negotiations with nadirter rann of the y, who leads in second place. And I completely agree with stan on the competence of the teams that were assembled. In fact, the landscape architect on the number two ranked team happens to be the exact same architect who is on the number one ranked team. As far as the rest of the team, very careful process that stan described resulted in a higher ranking on the number two team in terms of their comparable project experience. So anyway, I would move that we direct staff to enter negotiations with that team. And I would also include as part of the motion that the terms of the design agreement should require that the design team consider including to the extent possible green elements both from a vegetative and environmentally conscious perspective, as well as adherence to the urban guidelines for austin. There I'm tracking the language from the downtown commission's motion last night. I would also say that the terms of the design agreement should include a process for gathering input from stakeholders and review of the project by relevant boards and commissions. And I understand that that is actually now contemplated by staff, although it was not actually set forth in detail in the rfq. So that is my motion, that we direct staff to enter negotiations with nadir terany under the terms that I've described.

Mayor Leffingwell: Motion by councilmember riley to enter into negotiations only. I assume they come back here for execution?

Riley: Actually, i think the proposal was a negotiate and execution. And I would be fine with that.

Mayor, anne morgan with the law department. I believe the way this is posted you can say that you do not want to have this particular vendor, but we would need to repost if you want to just select somebody else.

Riley: I was previously told by staff that we could select someone else.

I think the way it's posted is for this particular group, and so you could come back next time and repost it.

Riley: Okay. Well, that represents -- I asked that very question early on this this process and was advised differently. So based on that new guidance, then I suppose the motion is just to postpone for two weeks.

To repost.

Mayor Leffingwell: I think the proper motion would be to withdraw this item?

That's correct. And we can repost it.

Riley: We post it with a different post posting.

With different language. Thank you.

Mayor Leffingwell: I believe we already had a motion and a second, so councilmember riley is amending his own motion to withdraw this item. Is that all right with the second? Councilmember shade?

Shade: It's fine with me, but I would like to make a point of clarification with the law department. We've had this topic raised before, and i think that it's important when we're looking at multiple vendors and a competitive process where there's multiple that have been ranked and we don't want to have this problem happen again. I don't understand why. We've talked about this before what's going o.

Yes, councilmember. This issue came up recently and we did provide some legal guidance on how to do it. And we'll be happy to share that with you. This particular item, however, just didn't get post understand that way that we believe you can move forward with.

And if I may, mayor, the legal guidance that was provided was that we ought to do postings like this to allow for selection of someone other than the lead. And staff in posting this one just didn't follow that guidance.

Correct. The legal guidance was that in these types of processes if the council wants to consider someone other than the staff recommendation, we should have a list of options for the council to choose from in the posting.

Mayor Leffingwell: So it's pretty clear from this posting language that the only action action Would be with regard to the name of the -- to the person listed in the posting.

And could also direct staff to come back with someone else, mayor.

Mayor Leffingwell: Well, I think what we're doing here is we're withdrawing the item and it will be reposted later correctly. I assume there will be some collaboration on how that posting is worded. Is that fair?

Yes, mayor, that's fair.

Mayor Leffingwell: Councilmember morrison.

Morrison: Actually, I have had the opportunity to talk with councilmember riley about this and in fact the downtown commissioner that he mentioned, chris shore, is my appoint point tee, and I appreciate all the discussion. But in fact, I do disagree with him on the idea of going with a second as opposed to the recommendation that we've gotten from the selection panel.

Mayor Leffingwell: Councilmember, the motion on the table is just to withdraw the item.

Morrison: So i would like to make a substitute motion that we actually approve the item and I wanted to talk a little bit about that if I may to -- I'm not sure if my colleagues will want to second it or not.

Mayor Leffingwell: Substitute motion to approve the item by councilmember morrison. Is there a second for that?

Morrison: Mayor, is there some way that i can make some points and then make the substitute motion so that my colleagues can hear the points to consider?

Spelman: I'll second.

Morrison: Thank you.

Mayor Leffingwell: That's the way to do it. Second by councilmember spelman and now you can address your motion.

Morrison: All right. Good. I appreciate that. While it was stated that the downtown commission didn't have the opportunity to really delve into the details and I appreciate that councilmember riley did that because I know that you get a whole box of stuff, and it's an important thing to do if you really want to delve into something. But there were several panels that did delve into the details, including the evaluation panel that had 10 folks on it. Representatives from the aipp from the arts commission from austin energy and several other staff who are related to the departments and the civil engineering ideas that have to go into building it. The aipp panel unanimously recommended this. The arts commission did. The downtown commission as we know out of 12, three folks did not sign on. So of the full process that we've gone through here, we have 36 committed citizens that have been engaged, and three of them are the ones that haven't agreed with that. I think that in terms of looking at the numbers that councilmember riley pointed out, in the ability to design in a context sensitive manner, we're talking 5 difference in 2, which I think really in the end is pretty insignificant in terms of looking at ratings. So I think that I for one feel that

the process, which is -- as commissioner hoss has said, is a complicated process, it's a complicated project. The look of something, the artistic look of it, is a subjective issue, and I'm quite comfortable and confident that having gone through this process with almost unanimous support, looking at the whole thing, including artistically, that the appropriate action to take is to approve the staff recommendation.

Mayor Leffingwell: Substitute motion by councilmember morrison, seconded by councilmember spelman. Any discussion on either the substitute or the main motion? And we will vote on the substitute motion first.

Riley: Mayor.

Mayor Leffingwell: Councilmember riley.

Riley: One benefit of postponing this item or reposting it and taking action next time will be that we will all have an opportunity to review in further detail the two submissions that we're talking about. I would be happy to share the materials that -- return them to staff so that they can provide them to other councilmembers so that we can take a more careful look at them and discuss them. I felt strongly after having looked at them that they would be very helpful in making a decision on this. I think it's worth taking some time to look at them carefully.

Mayor Leffingwell: Councilmember shade.

Shade: I appreciate all of the work that both of my colleagues have put into this, and I would really appreciate the opportunity to have a little bit more time. So I'm going to vote against the substitute motion so that we can have that. I don't see a real detriment to waiting the extra couple of weeks. So I'm going to vote against the substitute.

Mayor Leffingwell: Councilmember morrison.

Morrison: I would like to amend my motion to include those additional items that have come through with the downtown commission's recommendation.

Mayor Leffingwell: Councilmember morrison amends her own motion to include those same additional items. Is that okay with the second? Okay. Those will be a part of the substitute motion. For myself, I am going to vote against the substitute and vote for the main motion, but that does not necessarily indicate my preference one over the other. I'm simply giving us the option of another week to look at this and then make my decision. But definitely as i said, doesn't indicate that I prefer one artist over the other. Anything further? This will be a vote on the substitute motion. All in favor of the substitute by councilmember morrison say aye. All opposed say no.

Councilmember spelman, how did you vote?

Mayor Leffingwell: It fails on a vote of six to 1 with councilmember morrison voting for. And I will just say it that way instead of the opposite. It's quicker. That takes us to the main motion, which is to withdraw -- pardon?

Morrison: Is it also with direction to post it so that we could select any of the top three?

Yes.

Morrison: Okay.

Mayor Leffingwell: Vote on the main motion, which is to withdraw the item with direction to post it with some flexibility to address the problems that we've encountered today. All in favor of the main motion say aye.

Spelman: Mayor, a question first if i could. [One moment, please, for change in captioners]

the direction to you and to the rest of the staff is to allow us to do that and give us as broad as possible latitude, consistent with city policy. That's part of the motion.

That's additional direction to the motion.

Also additional direction for standard operating procedure during posting language, and if you'd like an additional resolution in the -- from the council i can provide that. I'm not sure I understood that last part. Also what?

Also we can talk about it afterwards. We don't have to do it in open session. all right. All in favor of the main motion say aye.

Mayor leffingwell: aye.

Aye. opposed say for.

Aye.

Mayor leffingwell: okay. So that passes on a vote of 7-0. The item is withdrawn. And that takes us to our 2:00 p.m. zoning cases. Mr. guernsey. There was a question on items 48 and 49. Has that question been resolved? I believe so, mayor. Greg guernsey with the planning and development review department. 48 and 49 at your last meeting I've been contacted by the clerk's office, and there was avid named marzellazumwallet and jean zumwallet who signed up to speak in opposition to 48 and 49. If you recall after a length I session we did zoning case after you took action on them, executive session, and this room was filled with a great number of people. We had contacted marzella this afternoon. Understood that she would probably come down here and right now we're not aware that she's in the audience or in the atrium area out front. With that I would just note marzella and jean zumwalt are opposed to these cases and I would offer these for consent because she is not present at this meeting at this time. well, as

you know, the public hearing has been closed on both 48 and 49, but if the individuals who felt they didn't have an opportunity to speak during the public hearing are in the chambers, make it known now that you are and we will attempt to amend the council rules for an exception to allow you to speak. And I don't see anyone or hear anyone, so we can assume that they are not in the chambers. with that, mayor, I'll go forward and offer 48 and 49 as consent items. 48, I have one change I would like to just read into the record for your possible action, on it the item 48 in this case, np-2010-0026.01. This is the north lamar combined neighborhood plan, tract no. 32. We're offering this for second reading only. This is for the property located at 320 east rundberg lane, and this is to amend the future land use map in the north lamar neighborhood planning area for this same tract. Originally you had designated this tract as high density single-family. On the next item, item no. 01, the north lamar plan combining tract -- district, 32 -- or excuse me, yeah, 32, for 320 east rundberg lane. This was a zoning change to public neighborhood plan or mp combining district zoning, commercial commercial-mixed use, conditional overlay, or gr-mu bco and p combined district zoning, conditional over, neighborhood planning or w/lo-co-np combining district zoning and commercial services vertical mixed use conditional overlay or cs-v-co-np combining district zoning. The notation I'd make is 48, staff understood that you took action on the staff recommendation, as you did on no. 49. 48 after talking with the clerk's office it was not clear that you had taken action on the staff recommendation, so we would offer that now. The staff recommendation for 48 would suggest that mixed use commercial and recreation and open space are the designations for the land use map and that would match the action that you took on the zoning on 49. So to make sure that the plan and the zoning are consistent, we wanted to offer that clarification. We understood that you took action on 49, as a staff recommendation, and we're simply asking that you entertain the same for 48 to match the zoning in 49. And with that I can offer this item -- these two items for consent for second reading only. and that's it?

Yes, I understand council would like to discuss items 50, 51 and 53, which are all historic zoning cases. and 52? you meant 52.

50, 51 And 52 and offering 48 and 49. so the consent agenda for those zoning items where we have already held a public hearing would be to approve on second reading only items 48 and 49. Is there a motion to approve? Motion by council member morrison, seconded by council member cole. Any discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. and that's with the understanding 48 and 49 were the staff recommendation. Reiter reiter ating once again as read into the record by you, 48 would be the staff recommendation as read. let me continue 00 zoning and neighborhood plan amendment items. These are the public hearings, are open as possible action this evening. We have a great number of speakers signed up for 53, 54 and 55, which deal with the central west austin combining neighborhood plans and the accompanying windsor road neighborhood rezonings and the west austin neighborhood group planning area rezonings. 56, I believe you have at least 26 speakers signed up for item 56, which deals with the great hills country club. 57, though, I can offer as a consent item. This is a postponement by the applicant. This is case c14-2010-0019, for the property loablighted at walsh tarlton lane. And 360. This is a applicant postponement for august 26. The next item for consent is 58, this is

case c14-2010-0069 for the property located at 904 san antonio street, to zone the property to downtown mixed use or dmu zoning, with conditional overlay as recommended by the planning commission. So it would be dmu-co combining district zoning. This is ready for all three readings. 59 is case c14-2010-0079 for the property located at 3500 speedway. This is on the property multi-family residence, limited density, historic neighborhood combining district neighborhood plan or mf-1 h-nccd np. The planning committee recommendation was to grant the m -- mf-1 h-nccd np. This is ready for consent on all three readings. I'd like no to note that you have a revised ordinance in yellow that you can take action on item 60 and 61 -- 60, this is a discussion item. There are sakers in regards to that. 61 we have a discussion postponement. We've received notice from a lady named mary engel with the north university neighborhood association asking for a postponement of 61 to your next meeting of august 26. The owners, the boes, are in opposition to the postponement request. I believe both parties are here to speak to the postponement, or opposition to postponement this evening on item 61. So that's the only discussion postponement at this time.

Mayor leffingwell: okay. So the consent agenda for those items we have yet to hold a public hearing, postpone item 57 till august 26, to close the public hearing and approve on all three readings items 58 and 59, and I believe that is the consent agenda. Entertain a motion to approve. Council member spelman moves approval and council member cole seconds. Any discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed say no. Passes on a vote of 7-0. So if there's no objection, council, why don't we take up this discussion postponement first, likely to be short. Item no. 61. Do you have anyone who wants to come and speak for the postponement and then we'll hear speaker against the postponement, reminding that we're not talking about the merits of the case but only about the merits of the postponement.

Good afternoon, mayor and council. I'm here as maryann -- a resident of north university neighborhood to request a postponement of this case for a week, and the reason is we were told at the planning commission to get a professional historian or preservationist to verify our research, because we're just neighborhood people with various degrees, but we're not professional preservationists. And so I would like this research verified not only for the beta project that ut is doing but for the record for this case as well as just for posterity's sake. I think it's very important, and that's why I'm requesting this, because we were asked to get an opinion, and I contacted -- peter maxon is out of country. I contacted three people. Two of them were unable because of conflicts of interest. A third person, greg smith, who works at ut, and also for the texas historical commission, said he would be willing to write a letter. He couldn't do it by today. He could do it by next week, but he is able to review our research so that we can have some verification whether or not we are -- you know, in fact, correct and on the right trail for doing historic research. And I think it's important.

Mayor leffingwell: okay. Is there someone to speak in opposition to the postponement?

Yes, ma'am. My name is charles boes, I'm the owner of the property.

And I'm christine boes, his spouse.

This is the same story that we've been hearing for several months. This case has been pending for months. Actually the application was filed march 11. It's postponed several times. We've heard this story time and time. We're ready to request that this project is not a historical landmark and we would like to build our single-family retirement home on this site. any questions? Mayor pro tem? go ahead, if she wanted to speak --

I would add that engel does not represent nuna but only represents herself as a member of that neighborhood in speaking out in opposition, and it has been a consistent request every time we get posted to a docket, the postponement is requested. No new information has been verified by the city staff. is there a specific hardship that you would incur by postponement until the 26th of august or are you just tired of being postponed?

Mayor, the truth of the matter is this is a strategy that's used at the 11th hour during several of these hearings, these three -- there were three individuals. It's not the nunar association that come up to oppose this transaction. And they're always saying, i just discovered something, and they request two or three weeks of research. They asked the staff to look into it. sadowsky has not changed his recommendation on any of this new information or this necessary research. We're ready to start building our home in this city. but you have no specific hardship with a one-week delay, in other words, nothing is happening in the next week?

We're ready.

We do commute from a dallas location to make each of these meetings, so each postponement -- so you came down from dallas today?

I took this week off for vacation so I could meet with people in the city who are interested in speaking about this transaction. Took vacation. I'm still on pto, and it's the same fire drill that we always are confronted with at the last minute for some unknown research that's necessary.

Mayor leffingwell: okay. Thank you. Questions? Council member spelman. thank you, mayor. actually, mayor, I had a question. I thought I was recognized, I wasn't ever able to ask. you were but I thought you were just pointing out that you wanted to speak. You're recognized, mayor pro tem. I wanted to ask if there's a valid petition on this particular item. It just wasn't mentioned, so I'm just asking, just for the record.

Yes, there is a valid petition by the owners.

Martinez: thanks, mayor. council member spelman? thank you, mayor. I have a question of ms. engel. The owners of the property are making a very good point. We all know that this -- postponements happen a lot. Will you need more than one week, ms. engel?

No, and we asked for one postponement at the planning commission and were denied. So it's a little bit of an exaggeration that we've asked for this a lot. This has been a very particularly difficult case, as well as I think in the backup material it says if we found any evidence -- new evidence that was compelling, it could be remanded back to the planning commission. We're trying to do our best as researchers. well, we certainly try and avoid that, but not with the b -- not put the boes family out any further. Has he done any research --

he's been contacted. I spoke with him on the phone yesterday. I was out of town last week. I spoke with him. He said he would be able to review it and have something next week. This was what he told me yesterday. But he could not at all do it by today. so we can be sure, then -- sounds like we're going to handle this case next week for sure.

That would be very nice. if you could impress on the doctor to handle this immediately, that would be nice.

Certainly. I will do that. smebcouncil councilmember cole.

You have never been before -- and asked for a postponement?

No, and I think we're entitled to one during the process, but if council wants us to have one and, you know, I don't want to put the boes family out, I'm not a jerk, but, you know, I -- I feel very passionate about this and I worked very hard on it. do you want us to vote on whether you're a jerk?

well, not today. no, I think you've been most reasonable, and it is our policy and custom to grant one postponement. So, mayor, I will move for that postponement. council member cole moves to postpone until august 26. Second by council member spelman. Any other comments? Council member shade and then mayor pro tem. I'm going to go ahead and support this because it is the custom that we allow for one postponement, and i appreciate council member spelman's direction on making sure that this doesn't get postponed again, and I wanted to give my apologies to you-all because I realize how difficult this is. I'm from dallas. I know it's very -- I mean, I grew up there. It's very different here, and in some ways we're very proud of it, but I do apologize, and I am aware of the fact that you've had to go through quite a few hearings to get here. So please know that we recognize the inconvenience, but it is one more week.

May I ask a question? Shade if you have a question -- smebs shade, do you have a question for -- yeah, my question is, do you have a question? And if so, what is it?

I do. I'm trying to understand the postponement is granted on the basis of the members of our neighborhood trying to have information verified by whom? smith, is that the name of the historian? Yes. And typically when we have cases where there are two different sides, each side is allowed to -- or typically is asked and granted a postponement once. And that's been typically our custom, so -- mayor pro tem. I'm going to support the request for the postponement and I do apologize as well, but the only reason I'm supporting the request for a postponement is because that is our custom. When it comes to council for the first time, if there are two competing sides, each side gets the courtesy request of a

postponement, for whatever reason. In this case there are some points being made as to why they're requesting the postponement. I will say this, though, that I am prepared to vote on this case today based on the information that I have and support the staff recommendation. There would have to be something pretty substantial to come forward between now and the next meeting for my position to change, but I will support the postponement because that is our custom here. Anything else? All in favor of the motion to postpone say aye.

Aye.

Mayor Jefferingwell: aye. Opposed say no. Passes on a vote of 7-0, postponed till August 26. Mr. Guernsey? At this time I'd like to introduce Steve Sadowsky to present item 50 and I think that was the first discussion item. The Wupperman house.

Good afternoon, Mayor, members of Council. I'm Steve Sadowsky, the historic preservation office, planning and development review department. Actually the first one we'll take up is the Culberson house at 2405 Bridle Path, C-14 H-2010-0002. This is item 52.

Pardon me? You're addressing item 52?

Is this not no. 50? 52 is the World Cuperman --

Which one is an 50? Wupper Wupperman.

Okay. We'll go to that one. Sorry for having these out of order. The Wupperman house is located at 506 Texas Avenue. This was recommended by staff, the landmark commission and the planning commission for historic zoning. The house was listed as a priority 1 in a 1984 Santa Fe Survey that was a city-wide of cultural resources mostly based on the architecture of the house. This house was built -- excuse me in 1915. It's an excellent example of a Queen Anne style house, and it has a very interesting history. This was one of the very first houses built in what we now call North University area, Texas Avenue. Wupperman bought this house -- bought the property in 1914, built this house in 1915, and at the time he was very much out in the country, on the outskirts of town. He had fruit orchards, vegetable gardens, chickens, all kinds of things that you wouldn't imagine being available to residents of this neighborhood at this point. The Wuppermans were a very prominent German-American family. Wupperman was actually born in Germany but came to Austin as a teenager, married Elsa von Rosenberg, who was the daughter of a very prominent Austin German family and they raised their family in this house. Wupperman went to work -- he was in the hardware business, originally in Seguin Texas, went to Austin, worked for a job, a very prominent German businessman in Austin, and around the beginning of World War I he went to the University of Texas to teach German but with the advent of the war that program was cut out completely so he went back into the hardware business. He worked as a bookkeeper for the Austin Gas Light Company. He was a deputy collector for the Internal Revenue Service, and then finally an auditor, accountant and bookkeeper for the Becker Company. He and his wife are very prominent in the German community here in Austin. He brought a cousin over from Germany right after World War II. This was begun they are Oswald, who also lived in this house and spent his entire career here. He was a prominent woodworker and wood

refinisher, and, in fact, was responsible for finishing all the furniture in the governor's mansion. Mr. Wupperman died in 1950. His widow remained in the house until 1967. They sold it to Francis Gurtis, who was a pioneer schoolteacher. Bought at Gussetville and Palmville. Steven Deats and Allen Gregory bought it several years ago and restored the house. The house is a wonderful example of Queen Ann architecture, and it really brings back a remnant of Austin that no longer exists. This house, as I said, was out in the country when it was purchased, and it's the only remnant remaining in this neighborhood of the type of lifestyle that people enjoyed, really up until World War II when this neighborhood really started getting filled in. This is one of the very few farmhouses, actually, that remains within the city limits of Austin, and staff recommends it as a landmark for that reason. Excuse me.

I'm sorry, that concludes my presentation, Mr. Mayor. Questions for staff? Council member Shade. I'm just -- I'm trying -- I'm looking across and realize that we have a couple that we're going to be looking at today, but I'm trying to get a sense for when you use the phrase "rare" versus "excellent example," I mean -- you're saying that there are no other houses -- no other Queen Ann style houses like this in this community?

No, no, I'm not saying that at all.

Shade: okay.

This is an excellent representation of the style. It has nothing to do with how rare the style might be. Okay, it's an excellent example but we have many of these examples?

We don't have many. We don't have many. Not preserved to this extent. This house is almost 100% intact. So it is virtually the same today as it was when it was built in 1915. But I thought it has a significant addition to it.

But you can't see that from the street. The addition is on the back. It's a historic addition that was put on by the Wupperman family and then the restoration has been returning that to its original appearance. So I'm just curious, because you know these landmarks that we have. So out of the 490-plus landmarks that we have in this community, how many would fall into this category of Queen Ann style? Like five? Ten?

Probably about -- I would say between ten and 20, that we've got -- as Queen Ann style, and this is actually a classical example -- I'm using classical with a capital C there of Queen Ann, because Queen Ann encompasses a lot of different styles. It was a Victorian style, obviously, very prominent and popular during the 1880s through the 1920s, at the very latest, actually hit its heyday right around -- at the turn of the century, 1890s to 1910. So this is an example of the Queen Ann still and its irregular massing but it has a lot of classical details, again with a capital C, of the columns of the gables. It's a rather restrained example of Queen Ann. Most of the time when you think of Queen Ann you're thinking of big turrets and leaded glass and stained glass windows and irregular massing and lots of big porches, and this has a lot of that but it's very restrained. This was very -- it was a farmhouse when it was built, but it was built in a popular style at the time, and it's an intact -- an intact version of that style.

Shade: okay. Can you explain to me where you have in the backup the estimated tax abatement? This one says it's \$9,476 annual.

Right. and the city portion is 2,000 capped. What does that mean?

That means back in 2004 the council enacted a cap on the amount of the city tax exemption for historic landmarks designated after december 1 of 0 4u, and the city exemption was limited at that point -- exemption was limited to \$2,000 or the greater half of the normal tax bill.

It's not really a cap, it's actually a floor?

No, it's a cap, because actually the exemption -- because we didn't have that -- if we didn't have that greater than, it would have been a smaller number than 2,000.

Actually the city exemption would have been a higher number, so this is actually -- the \$2,000 is the cap. I thought you said it's the greater of either --

right, but the city tax exemption would have been over \$2,000 and half of the city taxes were less than \$2,000, so it's the greater of those two figures -- take half the city tax bill, figure out what that is and measure that against the \$2,000. The cap is the greater of those two numbers, but either one of those numbers is less than what the city exemption would have been without the cap all together. So it has limited the cap, and I don't have the calculations in front of me here to tell you what the -- what the exemption would have been without the cap. Cap -- cap. I guess I'm not really understanding how that works.

Let me try again. Relook at the appraised value and run it through a tax calculator figuring out what the city tax rate is. We look at what the city tax would be without the historic exemption at all. Take that number, divide it in half. That figure is then measured against \$2,000, and then we take the greater of those two, but running through the exemptions of exempting 100% of the value of the structure and 50% of the value of the land would have resulted in a figure higher than either half the normal city tax bill or \$2,000. So we take the greater of the -- half the city taxes, or \$2,000 and cap the exemption at that point. But without -- without that cap the city exemption would have been higher -- greater than 2,000.

Okay.

Did I do any better that time? I think that's just a lot of confusion with how that works. [Chuckle] and I'm trying to look -- so I'm looking at, for instance, one of the other cases where it's capped at 2412. This is one of the other houses we're going to be looking at.

Right. so it could be higher than \$2,000.

It can be, because that 2500 number that you quoted would have been half of the city taxes.

Shade: okay.

Half of the normal city tax bill. I'll continue my math in a little while. The other question I had was, going back to the criteria that we have, tell -- would you please review again, there -- it has to meet two of -- two of five.

Two of five.

Right. And that's -- once we get beyond the thresholds. The thresholds -- this one is beyond the thresholds.

Right. and the two of the five criteria are architecture --

architectural significance and then the historical associations with the wupperman family, who maintained this house from 1915 to 1967, maintained a farm lifestyle for a number of those years, and as i said, it's a remnant of a lifestyle that no longer exists in austin. and is the owner here?

The owner's representative is here, yes. owner's representative is here, okay. Okay.

Mayor? any more questions? Mayor pro tem. let's take a difference example. This is too close to 2,000. If I have a multi-million dollar hospital and paying \$50,000 in taxes, and go for historic designation, I get a \$55,000 tax break, not 2,000.

No. because you said it's the greater of the two numbers.

It's the greater of the two numbers, but what we'd have to do is run through the value of the land and the value of the structure to see what your exemption would be. If it's going to exceed \$2,000, then we look at -- then would fall under the cap. If it's multi-million and you're paying \$25,000 in city taxes -- or 50,000 in city taxes -- is that what you said? -- Then yes, it would be \$25,000. that's my point, and I think that's council member shade's point, is that we use the term cap on the 2,000 but it's really not a cap, because if you have a home that's a multi-million-dollar home, your abatement is not capped at 2,000. It's capped at 50% of the overall value of 100% of the home and 50% of the land, which could mean thousands and thousands of dollars, not 2,000. So I think it's subtle, but I think it's significant the way we use the term "cap" really doesn't put a \$2,000 cap. It does what -- in my mind what council member shade mentioned, it creates a floor. It creates a cap if you have a house that's a really low value, but if you -- most of these homes that come before us aren't of, you know, really low value. They're actually pretty substantial in value, so therefore the overall abatement in the end if we designate them in the historic is thousands of dollars per year, not 2,000.

Well, that is correct, mayor pro tem, but the houses that are valued low that would not -- wouldn't each approach the cap. So it would actually hit the cap. It's saying that you cannot get a city exemption of more than the greater of 50% of your city taxes or \$2,000. So in the case of your multi-million-dollar house, without that cap your city exemption could have been higher. It could have been \$75,000. So it does put a cap for the most valuable pieces of property. If you have a house that's worth, say, \$150,000 or your

property is worth \$150, you're not going to get anywhere close to that cap, so your exemption is your exemption. It's only when the exemption without the cap would go over \$2,000 that we start looking at the cap. So we cap it there. So if your exemption, say, should have been 75, then we're going to say, then it's the value -- it's 50% of your city taxes, so it's 50. So it does lower the exemption. So it is, in fact, a cap. I believe council member shade was next and then council member morrison. All right. You got it. Clear this up for us. I'm just going to weigh in just a little bit. I don't actually use the word cap when we're talking about this, but one thing that I see is if you have a lower priced house, your -- your 50% -- your \$2,000 could be more than 50% exemption. So for a lower valued house you might get more than a 50% exemption, and it's probably more complicated than that, but I'm just going to leave it at that. That's the way I think of it. And I know there's discussions about changing the way those are calculated and I think that's great. I did want to ask a question content-wise about the house. One thing that jumped out at me in reading the backup which I thought was very interesting was that the connection that because of world war ii and perhaps animosity or insecurity with people of german descent wupperman lost his job, which then led to him having to sell off some of his property, which led to sort of the fabric and subdivision that are -- exist today. Is that correct? And I wonder --

that is correct.

-- If you could talk a little bit about that. Like which subdivisions we're talking about and do you know how much property he owned? Did it go to teheras avenue or --

he owned -- he owned one-fifth-sixth acres, and it was out on the site on harris properties. Site on harris was the developer of harris park, which is very close to here, which he purchased, so he owned almost two acres and had to sell off property in smaller lots, but there was never another subdivision created by the lots that he sold. He basically sold off land to other people. because for me that's really a compelling story of austin, that actually some of these political and historical events that were global were actually in the end defining some of what nuna looks like today in terms of their plat, so to me that's a compelling story. And with that I'd like to make a motion that we approve staff recommendation. motion by council member morrison to approve, second by council member spelman. Any more discussion? Council member shade. I did have one other question. We got off on the -- on the definition of "cap" or multiplier or demultiplier, whatever you want to call it. But you did make a comment about restrained queen ann, and I just wanted to go back to -- so how does that relate to the phrase "good example" if it's restrained? I just didn't understand that and I wanted to.

Well, it's a more -- it's taking the finest points of queen ann without all the embellishment. I mean, sometimes queen ann is known for its embellishment, and that's like the painted ladies of san francisco. Those are excellent examples of very embellished form of queen ann. This is not -- this is a very classical, almost quiet queen ann, but it has the best elements of it. It's got the can'ted bay, the full width porch, it's got -- you know, various sorts of embellishments and design features that typify queen ann, the triple windows and the gable in the front, for example. I mean, it's reigned in because queen ann is a rather brought category of architecture.

Shade: okay. And then finally question that -- what -- if you could just summarize it in one sentence, what is the public purpose that is, in your opinion, greatest -- what is the greatest strength of this application?

The greatest strength of the application I think is to show a house that represents a lifestyle of a time gone by. Anythi anythi ng else? All in favor of the motion to approve the staff recommendation say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. That passes on a vote of 6-1, council member shade voting no. And that takes us to item 51.

Mayor? council member riley. if I could take just a moment to add one word about the motion we just made and about these two other upcoming cases as well. But as we've been taking up these historic landmark cases over the past few weeks I've been making an effort with each case to point out that we are engaged in ongoing discussions about our historic landmark program, and there is some -- like some possibility that those discussions may culminate in recommendations that would affect the benefits associated with historic landmark status, the tax benefits associated with them being designated as historic landmark. And the point I've made in discussions about those cases recently is that given that those discussions are ongoing now, that I would expect that those landowners who are getting their landmark status now would be on notice that there may well be changes to those tax benefits associated with landmark status. And so that I expect that to the extent that those changes are approved by this council in the future, my hope and expectation is that those changes would apply fully to those landmark cases that are getting -- that are -- those cases in which we are designating properties as historic landmarks now. I realize that properties that were designated long ago may have a grandfathering claim based on their expectations at that time, but given that these discussions have been ongoing now, I think it's fair to say that those who are now obtaining landmark status are on notice that there may well be changes to the tax benefits associated with that designation sometimes soon. I just wanted to make that comment, and that really applies to all of the historic landmark cases that we're discussing today.

Mayor leffingwell: okay. Applies to all the historic landmark cases, same comments. No. 51.

Yes, sir. Item 51 is the jacob and bertha schmidt house at sparks avenue. This was recommended by staff, the landmark commission and the planning commission, and this is a 1924 house, in the hancock neighborhood area. It is a good example -- an excellent example of dutch colonial revival, and that is defined by the gamble roof, which you see on the side here, kind of a barn-style roof that defines this house, it's got the can opener dormers across the front and otherwise it is a colonial revival house. These houses are very rare in austin. This is definitely an east coast style. There are a number of these in dallas, a number of these in the mid-south, but as far south as austin these were hardly ever built, and the ones that we do see are much newer than this. This is a very, very early example of dutch colonial revival in austin. The house was built in 1924. The original owner was jack pillow, who worked with calc lumber company. He resigned during a scandal and the house was purchased by jacob and bertha schmidt. schmidt had immigrated to the united states from hungary. They had originally come from new york. They were both jewish immigrants, worked in various industries in new york city, a slaughterhouse, a brewery,

then came down to seguin texas and began peddling clothing to area farmers. This was a typical occupation for jewish immigrants at the turn of the century, and he had come into new york in 1907. He opened a clothing store in yorktown, texas, which is very close to seguin, and then later opened stores in beeville and san marcos. He moved up to austin in 1930. He opened his own department store on east sixth street and then moved to congress avenue in 1936, when he opened yarrings. Yarrings was probably the leading ladies clothing store in austin for many years and he named it after his wife berthas maiden name, which was y-a-h-r. They were active in the early jewish community. Founding members of the synagogue here and very active in its growth. The house has remained in the schmidt family since schmidt bought it in 1930. It is currently occupied by his granddaughter and her husband. The house, as I said, is a very good example of dutch colonial revival. It is associated with the schmidt family, who are very important in the jewish community and also the business community as proprietors of yarrings for 35, 40 years, and staff recommends it for its architecture and it's historical association. Questi questi ons? Council member shade. I do just want to make one point here. Because in the -- I know it just -- in the text, I mean, you do explain -- and this one is an excellent and rare example, and that is different from the one that we just looked at before, and I did want to point that out.

Thanks. there's some editorial -- this is obviously very subjective, a lot of these cases, and so the way that you describe them is different from one case to another. So as I'm trying to look at which ones have the biggest strengths, this one you did seem to talk about in a little different way than the previous house. I just want to point that out.

Thanks. Anythi anythi ng else? Ready for third reading.

It's ready for third reading, yes. Discus discus sion, entertainment a entertain a motion. Councilman spelman moves approval of item 51 on third reading. Second by council member morrison. Any discussion? All in favor say aye.

Mayor leffingwell: aye.

Aye. Opposed say no. Passes on a vote of 7-0. Case 52.

Okay. This is the culver son house, located at 2504 bridle path. This was recommended by the staff, landmark commission and the planning commission. The house was built in 1941 by olen and marriy lou culberson. This is an excellent example of southern colonial revival. This is not a terribly rare style in austin, but this is one of the best examples that I have run across in the city. This house has caught my eye for many, many years, on bridle path. Southern colonial revival is known for its symmetrical facade, entry framed by side lights and a transom and a front porch, which which it has. This house was like in gone with the wind and the house captures that character here. The house was built in 1941, so this is actually a rather late version of southern colonial revival. That is much more popular in the 1920s and the 1930s. The owners and occupants were olen and mary lou culberson. Olen came to austin to work for the texas railroad commission. Prior to that he had been the judge up in hill county, which is where he grew/. He worked as the cheap examiner for the railroad commission in the 1930s, was terminated from that job after he made some rather unpopular decisions and then ran for the texas railroad commissioner, which

he won with the help of the volunteer firefighters unions that he strongly supported throughout his career. Culberson was best known for championing the rights of the independent oil producers and his principal contribution was the conservation of natural gas. He enacted -- or helped enact legislation that controls gas flaring of oil wells to help conserve that natural gas, and he tried to keep business in Texas by opposing pipelines out of the state, thinking that if businesses could locate near the oil wells for oil wells and gas wells in Texas, that they would stay here rather than depend on Texas gas being pumped to wherever they might be. He served as railroad commissioner until he passed away in 1961, so he had a run of 22 years. His wife, Mary Lou, stayed in the house until 1972. James and Beverly Hood purchased the house from the Culbersons' daughter. He was an orthopedic surgeon and they lived here until 1986. The current owners purchased the house in 1996, and that's Gerald Torres, who is a prominent professor of law at UT and noted authority on environmental and natural resources law. The house has significance for its architecture. This is one of the best examples of southern colonial revival in the city, along with its association with Olen Culberson, who is a champion of independent oil procedures and one of Texas' first natural gas conservationists. That concludes my presentation. Questions? And I believe this is also ready for third reading?

Yes, sir.

Mayor Leffingwell: okay. So there's no discussion. I'll entertain a motion on item no. 52. Council member Spelman moves to approve item 52. Staff recommendation, seconded by council member Cole. Discussion? Council member Shade. I'm just going to say, this is a beautiful million-dollar-plus home and I appreciate the addition that it makes to our community, but I don't -- I feel like southern colonial seems common. You said it isn't rare even if it's a good example. I'm going to be voting against it. Just wanted to explain that. That's why. I'll just say this is one that I think, Mayor, it's reiteration of council member Riley's fairly consistent comments that all of the advantage of mon -- monetary advantage of historic designation is subject to change, and likely will be change in the very near future, so I'm going to support the motion. All in favor say aye.

Aye.

Mayor Leffingwell: aye. Opposed say no. Passes on a vote of 6-1, council member Shade voting no.

Thank you. And that takes care of that. Guernsey, are we -- 53 is next, I believe.

Yes, Mayor and Council. And staff would suggest that we bring up 53, which is the central west Austin combined neighborhood plan, 54, which is the Windsor Road neighborhood area -- planning area rezonings, and 55, the west Austin neighborhood group planning area rezonings, and bring them up together. I'll let staff make a presentation and then you can hear from the speakers on each of those items individually. I believe they have actually some --

Mayor Leffingwell: okay. I've got another modification for you. I agree, we'll call up 53, 54 and 55 together, get the staff presentation, hold the public hearing, and there will be an opportunity for anyone to speak who signed up on any one of the three items, but you'll only speak once. The second item I want to bring

to your attention is there is one particular tract in this mix, the neighborhood planning area, that will cause three of our council members to recuse. There will be only four council members remaining to vote on that one particular tract, so what I would like to do, unless it's too unwieldy, is after we've conducted the briefing and the public hearings, is to take that tract out, treat it separately, and then go back to the rest of the plan, so that there will be some order to when you're three recused council members have to be participating. They won't be able to participate in the discussion. They can remain on the dais at their discretion, but they're not allowed to make faces or hand gestures or anything like that. Mayor and Council, what we can do is we can address that item first when we actually get to the motion sheet. That's what I just suggested. We'll -- and then go back to the order that's in the motion sheet. That's right. Well, then -- go ahead. At this time I'll introduce Paul Guiseppe, principal planner in our conference and planning division and he will make a presentation for those three items.

Mayor, Council member. Guiseppe and I'm a principal planner in the city's planning and development review department and it's my pleasure to be presenting to you the central west Austin neighborhood plan and its associated rezonings. I just -- just to -- the items that we're going to be talking about tonight are agendas no. 53, 54 and 55. Agenda item 53 is np-2010-0027, and that is the central west Austin combined neighborhood plan, 54 is c14-2010-00 r5 1, which is the Windsor Road neighborhood combining district, and finally agenda item 55 is c14-2010-0052. The process for tonight's presentation is we're going to cover the planning area background, the planning process itself, and spend most of the presentation talking about the actual neighborhood plan, and then after the presentation and then the public hearings, the public speaking, we will then go through the specific rezoning cases as well as any contested items related to the neighborhood plan. Just very briefly, the planning area background, when you look at this at the citywide level you can see that these two planning areas are within the central portion of the city, just north of Lady Bird Lake and Lake Austin. It's actually very close, within a mile or two of downtown as well as the university. And as we zoom in, you'll see within these two distinct planning areas, on the west side is the west Austin neighborhood group -- let me first explain that the boundaries are -- the properties are -- the planning areas are separated by Mopac, which is the line in the middle and then for the west Austin neighborhood group, the boundaries are Lady Bird Lake to the south and Lake Austin to the west, 35th Street to the north. And this area it contains two separate neighborhoods, the Tarrytown and Deep Eddy. And the -- Braker Woods and Pemberton as well as the west 31st Street neighborhood, and this area is proximate to the Old Enfield neighborhood, Old West Austin. Those are to the east and south of the road planning area. Then Rosedale and Camp Mabry to the north. So this area has a very long and interesting history, but for tonight I'm just going to focus on those items that pertain to how the neighborhood was developed today and also discuss some of the issues that we heard throughout the planning process. One of the important factors here is that this was a neighborhood that started -- it started getting subdivided back in the late 1800s, and it has throughout its history been a single-family primarily single-family neighborhood with yard homes and it's a great example of early American suburbs. As you know, this area has quite a few historic landmarks. For example, the areas east of Mopac, many of the homes were built in the late 1890s or early -- through 1900s, and the area west of Mopac, those started developing in the 1920s and onward. You may also recall that this year the Heritage Homes Tour took place in Tarrytown. The image to the right is the Old West Austin historic district, which was formed about ten years ago, and it's created -- there are a couple important points there. It's an indicator of many contributing structures within this area and it was also created in response to the potential whitening of

mopac about ten years ago and the concern that they might lose additional historic homes or contributing structures in that -- in this neighborhood. The planning area has -- has a dozen city parks within it, and many of them are widely recognized. The two I want to focus on here to the left is deep eddy at aislers park, which was the first swimming hole opened in texas and on the left is lions municipal golf course, which was built by the lions club in 1924, it opened in 1924 and the city has been operating it since 1937. I would like to fast-forward to the conditions there today, and I'm just going to briefly go over some of the demographic information. Rather than just show individual slides for this, I thought it would just be a bit easier to just have some general statements that this area, on average, has a higher income level than the rest of the city. Its educational attainment is higher on average. The home ownership rate is also higher, and the ethnic makeup is mostly anglo. This slide shows that the use of land as of 2008, and you can see almost 50% of the area is devoted to single-family. Next is open space, which is a fairly high amount compared to other neighborhoods in the city. The other thing I'd like to point out to you is that this is a very developed area. There's very few undeveloped parcels left, and I think partly because of the developed nature of this area, the overall increase of population has been slower than the city on average. This slide shows a 15-year period between 1990 and 2005, well the total -- where the planning area grew by about 13% compared to 50%. While the growth may be a bit slower here compared to the rest of the city, one of the issues we heard frequently is the -- the amount of remodeling and new construction that has occurred in this area. What the slide -- the map on the right shows are remodels of structures between 2000 and 2009 that were valued at over 150,000 and up. So what's been happening in this neighborhood is a lot of older homes, smaller homes, are being torn down or they're being added on to pretty significantly. So the character of the neighborhood has been changing. And oftentimes it comes at a cost of losing the mature tree canopy. Now, I'll just spend a moment talking about the planning process. This was actually the first neighborhood plan to use a trained facilitator and an organizational development person from our organizational development department to help us prepare for the meetings and also to help work through the agendas to make sure all opinions were heard during the meetings. Now, when we first started having our discussions on land use, we actually -- we used the consensus model where everyone in the room would have to agree in order for us to move forward and have consensus. When that proved challenging, we worked with the neighborhood to come up with a standard where roughly 90% support was sufficient for consensus, and if we didn't have 90% support, then you would -- we would forward two recommendations, which makes up a lot of the motion sheet that you have. This process actually started in june of 2007 with the kickoff, so it's been ongoing for about three years of a lot of intensive meetings. Initially what we would do is we would have non-land use meetings where we would have subject matter experts come in, such as from our transportation department, and provide presentations, provide answers to their questions, and then we moved into about a year and a half people where we had 25 land use meetings and eight zoning meetings, and then we had a final open house in march of 2010. We -- our outreach, we first -- we had mail-outs for the -- for the kickoff for the mid-process and for the final open house, and for each of those we had over 10,000 notices that went out to property owners, business owners, renters. We also then started accumulating an email list of over 850 people, so we would use that to notice public meetings. We also received a lot of help from the neighborhoods themselves. This example was one from the west austin neighborhood group asking their members to come out, and we also -- the neighbors did a great job of getting word of mouth out to help -- help people come to the meetings. We also went to the schools. We met with the campus advisory committees. We also sent fliers home with children. There are three schools in the

planning area and we out reached to all of them to let them know about the process and upcoming meetings. We also had a lot of newspaper coverage in the west austin news, the chronicle, the statesman, blogs and so forth. We also got on calendars. We frequently were in the austin chronicle calendar, we were in the statesman. When we were having land use meetings we would put posters up, and I want to point out here that the neighbors helped out a lot because they donated materials to us and they also allowed us to put those on their property, and that was very important. When we had meetings of more -- of greater interest in the public, such as brackenridge, we also had radio and television. We had a total of 50 public meetings in that roughly three-year period. We averaged about 41 people per meeting, and we reached out -- we had homeowners, renters, property owners and bis owners. The majority of -- business owners, the majority of which were probably homeowners. And we received a lot of help from many different city departments and outside agencies. They were subject matter experts who came to our meetings, and they also helped us draft the plan in front of you. Now to talk a bit about the plan itself. First I want to just indicate how the recommendations were written. We would -- we would have our public meetings with the neighborhoods. We would collect their feedback, and that's what we used to help form the recommendations in the plan. The recommendations were presented to the public at the mid-process in the final open house. And, in fact, for the non-last use chapters we had a goal that we would complete the chapters early. As soon as we finished up on a particular subject, we started writing it, and we would release it early, so there were multiple entryways for people to respond to the drafts, and those public comments were incorporated into the final draft that you see, as well as the comments we received from relevant city departments and outside agencies. Now, for the plan itself, it's primarily made up of community life parks and environment, transportation and land use. There were three themes that occurred throughout this entire plan, focusing on protection of neighborhood character, improving connectivity, and also beautification projects. And so you can find throughout many of these chapters those elements. And, in fact, those elements can be found in the vision statement. Now, it's a rather extensive one, but the highlighted portion, I think, that I'll read captures the essence of the vision, and that is is the central west austin neighborhood plan shall preserve the existing character and integrity of the single-family neighborhoods to reflect the historical nature and residential flavor of the neighborhood. And that was the important thing we kept hearing throughout the whole planning process. Now, for community life, the goal is that the neighborhood will foster an improved life for all ages through community interaction and such themes include create more opportunities for interaction and assist local schools by supporting academic excellence and improving community interaction. And then there was also a theme to make central west austin a place that is safe from crime. The parks chapter, as i mentioned earlier, there were 12 parks in the area, and the goal for this plan is to preserve, connect and enhance existing parks and recreational areas and facilities in the central west austin planning area, as well as open space on large properties, such as the austin state school and the brackenridge tract, and to create opportunities for additional public open space, such as trails, pocket parks and landscape traffic islands and recreational facilities on large properties. Some of the theme include -- well, one of the themes, one is ensure range of parks for a range of people, promote recreation and wellness, public art and gathering places for all ages. We also have an environmental goal that the central west austin neighborhood will encourage a healthy urban ecosystem that makes the neighborhood unique. And protect natural and social hair tadges. And to do that one of the objectives is to increase -- diversify the urban forest, reduce local flooding, protect the waterways from pollution and erosion, connect the natural and social heritage and improve key vir qualities. For transportation their goal is to support the livability, vitality and safety of

the west austin neighborhood by providing streets that enhance its neighborhood character, encourage walking, bicycling and transit use and better serve its schools, library parks and other key destinations. And some of the key themes that are attached to that goal is not to widen the streets, to enforce speed limits, to protect against cut-through traffic and control on-street parking and maintain acceptable traffic service levels. One of the objectives is that streets should support neighborhood character and livability, to make key destinations easier to reach for all users, regardless of mode of travel, and to support the transportation investments in loop 1 and lamar boulevard corridors that are compatible with the neighborhood. One point here that we heard from the neighborhood was they want to make sure if this is widened that first it stays within its existing right-of-way, and they would also like to see noise and light barriers to protect them. Now, the last part of this is land use, and this is actually a fairly lengthy goal and it's on two slides, so I would -- I'll just paraphrase the first portion of it, and the first part of the goal statement deals with protecting the historic character and integrity of the single-family neighborhoods, and doing so by avoiding increasing traffic and preserving the tree canopies and planting new trees and improving environmental conditions, but ultimately making sure that any development is compatible with a single-family area. The next portion of the goal to the land use goal is development of any nonsingle-family development, that it should be still -- it should be appropriately located and scaled and designed such that it's done in a way that protects and enhances the single-family homes. Another portion of this goal is the future use, if the brackenridge tract or the austin state school are redeveloped, that it will take the neighborhood impacts into account and should be done in a way that protects the existing neighborhoods. Next I'm going to explain the land use objectives, and to help out on this I have a -- some maps to help -- to illustrate how we're achieving this. I also want to point out that there is a small map on your left, and that's a locator map so you know the areas that we're talking about. This is just an example of this objective, of preserving the existing single-family neighborhoods. This map to the right shows current use of land, and the yellow represents single-family, and what we're proposing on the future land use map is to designate that as single-family, and we feel that's an appropriate way of preserving the single-family neighborhoods. Along the same lines, there is an objective to preserve and enhance existing multi-family and neighborhood serving commercial districts. In this case we're looking at some multifamily on enfield and exposition, and it's -- we're proposing that it be protected by designating that as multi-family on the future land use map. The next -- it's encouraging, the northeast corner of the windsor planning area, which includes the seton medical center, to become a more -- become a mixed use neighborhood, respecting the bryker woods and west 31st street neighborhoods. Again, this is their most intensive corridor, and you can see there's a mixture of medical and commercial and office. And so what we've -- what we're proposing to do there is designate the edges along lamar and 38th street as mixed use with mixing in of office and commercial. This objective is to encourage the state of texas to keep the austin state school in its current location and be a more integrated asset. The blue on the map indicates its use, and i want to point out that we have consensus from not only the neighborhood but -- well, the two previous superintendents of the school were fine with us designating this as civic, and when we had our meeting, the representatives of the general land office were there and they did not object to a civic designation on the future land use map. The next area deals with the brackenridge tract, and what I'm going to show you here is what was -- what was -- the recommendation of the planning commission. And what they recommended was language that was written by the neighborhood, and I'll just briefly go over what the two objectives are. There's recommendations that tie into this, but the recommendations are two encourage preservation of lyons golf course and comply with the 1989 development agreement. 8 is

should it be redeveloped, it should be done so in harmony with the neighborhood transportation and natural resources. they were still in a state of flux. They didn't know what they wanted to do. So as the -- as our neighborhood planning process progressed, the university created its own master planning process. And they hired cooper robertson to conduct their studies. As that was happening, the city's position at the time was to continue to work cooperatively with the university and all the stakeholders and the results were these resolutions that are showing on the screen and are also in your backup. During this time we also kept meeting with the neighborhoods and had several meetings specifically on the brackenridge tract to hear their comments, their feedback, their concerns, answer their questions. It was also the opportunity for information to be shared such as when the next board of regents meeting was going to occur and when cooper robertson's plan was going to be release and so forth. As you know, cooper robertson release twod concept plans. But as far as we know today, the university has not taken any action on it. So they're still in a state of flux. So another reason that we're recommending excluding it from the flum is we realize there is a development agreement that occur understand 1989, but we do have reservations because of our limited authority over university or state owned land for that matter. And finally our recommendation we feel is consistent with the decision in the east riverside, oltorf neighborhood plan where 's riverside campus was excluded from the flum, particularly after the community college asked for it to be so. However, as you know we will be discussing this more. There are some other recommendations when we get to the motion sheet. Now I would like, as we're getting near the end of the presentation, I'd like to show you the draft recommendation -- the draft future land use maps as recommended by planning commission. For the windsor road planning area, this shows their current use of land. As you can see it's mostly single-family. And so is the future land use map. The same is also true with the west austin neighborhood group planning area. It is mostly single-family and the future land use map is as well. And again, -- and then keep in mind that the recommendation on the brackenridge tract was -- is staff's recommendation. And just to show these as combined, you can see again the majority of the future land use map is single-family with -- with along the edges mixed use and neighborhood commercial. I do want to point out that this map is the result of 25 land use meetings with the public. Does coupe have any questions about -- does council have any questions about the neighborhood plan?

Mayor Leffingwell: Questions? In that case I think we can go to our public hearing. And as I said earlier, this public hearing will be the same public hearing for items 53, 54 and 55. And I'm going to try my best to make sure -- I'm going to go through item 53 because it has the most people signed up, 29. And then I'll review 54 and 55, but then there will be an opportunity if we somehow missed, i will make sure that you're invited to speak at the end of this public hearing. .. the first speaker that I have signed up is steve amos, speaking for. Steve amos. Steve amos is not here, so we'll go to anne phipps. Anne phipps is not here. Alice glasgo. Alice glasgo. And is steve burrlin in the chamber? Okay. Trevor dickens? Trevor dickens? I just need to find out if you're here so that you can donate. Okay. Laura burrlynn.

She's here. She just stepped out to --

I did see her.

Mayor Leffingwell: Alice, you have 12 minutes.

Good evening, mayor and councilmembers, Alice Glasgow representing the property owner -- I'm trying to find the tract number here. For tract number 101, which is motion number 13 on your motion sheet. The property is located at 3215 Exposition Boulevard. And the map here shows you the subject tract. 2 acres that was previously part of the Austin State School. The property comprises of two tracts that are approximately 47,000 square feet each. The site falls within the Taylor Slew Watershed and part of your watershed regulations, which are pretty restrictive. Limits the impervious cover 2-acre tract. The lot slopes not slowly at approximately 35 feet, and you will see that shortly. The next map shows you other tracts in the vicinity of this property that either has SF-3 with no intensive land uses along West 35th Street, and that is in a color that is somewhat purple. You can also see towards Pecos Street and 35th, you have MF-2 zoning that has some condos. South of it you have property that is owned PUD in blue, so you can see blue spread throughout the site and other more intensive uses within this part of the planning area. And our tract sits within the state school property and the remainder of the state school is approximately 90 acres. The request we have before you for zoning on this tract is MF-1, and this chart shows you the comparison between MF-1 and SF-6. The only difference as far as the standards go has to do with the height of five feet, and I will demonstrate why we need the height on this site. As I indicated earlier, the impervious cover is 0% under the watershed regulations. The SF-6 and MF-1 as far as what is allowed for residential development is the same. The reason we're asking for MF-1 is that we would like to have MF-1, the only MF-1 use we would have to have is congregant living, which is a use that allowed assisted living. And that is the first zoning district that allows congregant living with a conditional use permit. So a site plan for such a use would have to be approved at a public hearing before the planning commission and if there is an appeal, it would come to the city council. So the MF-1, we're asking MF-1 limited to one MF-1 use, congregant living plus residential uses primarily. Your city's transportation criteria manual classifies Exposition Boulevard as a minor arterial and access under your tract criteria manual is usually limited to intersections and major driveways. It recommends that it is desirable to minimize the number of driveways on an arterial street, and also single-family residential development should not normally front on an arterial street. This is an example of a development that has single-family homes fronting on an arterial where you have several driveways and each lot has a driveway on to a major arterial, and that explains why the transportation criteria manual discourages that. On your right-hand side you can see a cluster development that -- would be achieved under your MF-1 or SF-6 with cluster development in and one or two driveways that go in and out to the site. This is a layout that shows how you could have a single development with buildings in the back and some in the front on the top of the -- of the presentation. To the bottom you can see that with SF-3 duplexes you have more driveways, and obviously more interaction with the street. The same thing with single-family lots. So I'm making a case here that you have better clustering and less traffic movement conflicts with the MF-1 with SF-6 uses and congregant living as the facility the only use. The -- as you all know, the APA study has indicated that cluster development uses less water, single-family uses use a lot more water than would a multiple use site. So a site that is clustered would use much less water, approximately 98 gallons if you're going 27 townhomes here, versus if you had single-family development. We would have water quality. If you require development, either congregant living or townhomes, a pond would be required, a water quality and detention pond, and would look something like this, which is aesthetically pleasing. It would not be an ugly pond that would occur on this site. The challenges on this site are that we have some trees that we'd like to protect. There's a drainage easement that we have to work around that was put aside by the state school and the city that we would include and enhance. There's an opportunity here to add a density and obviously have

a sustainable development here with consolidated driveways. This tract demonstrates the difference in the height and the reason we need the additional five feet is not to achieve additional square footage or an additional floor. Because the site slopes downward from the top towards the southern part of exposition is that it would give us design flexibility, which means that you have the ability to have pitched roofs with an additional five feet. As you can see when you go down to the middle, which is the sf 3 overlay over mf 1, that with multi-family, one the height being 40 feet, you're able to have a subterranean parking garage and then the building above is a minimal distinction really between the five feet in that part of the building that is underground and then the five feet as you can see is really not that much of a difference on the higher end of the facility. The bottom slide shows you on the rear how the height would appear when you have 40 feet. This slide shows you two homes on exposition within the neighborhood rather than so when you have a three-story building, and trees in front, it's not that obtrusive if you will. So the top -- the top slide shows you a three-story building at the bottom with trees. It's not that apparent. And the same side to the right hand slide, same house, three stories with trees, that's what it looks like. I will pause here and just restate that the request for mf 1 would be mf 1 with congregant living as the only mf 1 use and sf 6 uses. And I passed out a chart to you in pink color that shows the definition of congregant living and it also shows you how it's defined. And sf 6 it shows you sf 6 and mf 1, how the density is calculated. So hopefully that will be helpful to you. I'll be glad to answer any questions that you might have.

Mayor Leffingwell: Questions? Councilmember Morrison.

Morrison: Glasco, I apologize if I missed this earlier because I was in the back, but you mentioned that you were talking about the benefits of clustering. And I wonder if you could talk to me. There's also a 40% impervious cover limit. Is there -- can you tell me what exactly is going to be clustered and are you planning to set aside open space?

Well, what I mean clustered is that development if you have -- if you have a congregant living facility or townhomes as opposed to a subdivision of single-family, sf-3 zoning. The difference is if you have a single-family 3 development, will you subdivide the land into multiple lots, 7 or more. That's not positive possible. Whereas if you have the sf 6 I would possibly mention something I am similar to your neighborhood, the castle where we did townhomes, where you have the townhomes in that kind of a setting versus individual single-family homes.

And you can do that in sf 6 or mf 1?

The mf 1 is -- two things. Sf 6 does not allow congregant living. Mf 1 is the first zoning district that allows congregant living with a conditional use permit. And then the other difference is the five foot height, which we're asking for design flexibility.

Great. But in terms of the clustering and being able to do smaller --

it doesn't make any difference. You would still be clustered either way. You have to provide a water quality and detention pond. That would be part of the open space right there. And then the limitation on

impervious cover and then we would comply with compatibility standards with 40 feet because we're far away from your street, counts as set back, as we've looked at it, it's fully compliant with the standards at 40 feet.

Morrison: If it were sf 6 or mf 1, 40% impervious cover would hold.

Correct. That is the most restrictive. It's more restrictive than your zoning district that. Is what it is and unless there's a variance granted if it's 40%.

Morrison: Thank you.

Next speaker is dellie herndon. And welcome, dellie. You have three minutes.

Thank you very much. I represent the neighbors and our position, which they feel very passionately that -- am I too close? That it needs to be sf 3. And that is so that we will hear back when a real development comes forward. Over the last three years we have never gotten a defined clear development presented to us, and even since it went to planning commission, there's not discussions of other things that we had never heard of before. And this is the first time I've ever heard the term congregant living. We spent nine months mediation and two negotiation periods of several months working through a compromise that was going into council in 2008. And the pulled it to go back through the planning process. We went back through the planning process as well. Our neighbors were consistently very strongly -- I would call it a consensus if 70 to 80, 90% of every vote was in our favor. Was together and held firm on this. As of today still making changes. I mention a couple of things. I never heard the word congregant living. Trees are very minimal now. Many of them have died on this site. So there's not much buffering of any construction. And the flexibility for height, that's the first time I have ever heard the term design flexibility for height. We feel strongly about height because the ground rises away from single-family deed restricted homes. Simply stated our goals are so preserve the neighborhoods and protect the neighbors that are there today. We -- to avoid a precedent that a those two acres that will negatively impact 95 acres and particularly the buffer along exposition should the state school be sold. We want a compatibility with immediate neighbors where if you've got a five foot rise and a 35-foot building or 40-foot building across the street from a single-family deed restricted one story building, you have quite a looming building. We want to take into account future development and planning of the state school project with a reasonable density on a very busy hilly street next to the neighbors and a lot of opportunity to get density as you go further towards mopac. We are very supportive of mixed use and high development going that way. We recognize that sf 3 has a driveway issue and we would be happy to work with that when there's a real plan and a real approach that we can talk about. The problem that we've been dealing with for three years is there was a very large price paid for this piece of land, and it's a requirement to get it zoned much higher than the single-family that it was originally. As you deliberate we hope you will look at three things. That this is a precedent setting decision that makes a huge difference in our neighborhood. Not only along exposition, but what backs up to westover. That our neighbors very strongly want sf 3. and that we want like a buffer zone along exposition. And I will close. Any questions?

Mayor Leffingwell: Thank you. Questions? All right. The next speaker is Vivian Wilson. You have three minutes.

Thank you very much. There's a lot of issues that we can't cover tonight because this is part of the neighborhood planning process rather than being set aside as its own zoning case like it was in the past. But one of the things that isn't covered by compatibility standards are some of the specifics of this site, which are that it rises up 40 feet from the neighborhood across the street, which is deed restricted one story and the deed restrictions in our neighborhood are enforced. And there's 444 feet of continuous frontage. That's a great deal of frontage along exposition that other properties along exposition don't have. Miss Glasgow put up a slide showing two houses that were three stories, but those are individual homes and they aren't -- they aren't a string of continuous facade over 444 feet. And without the restrictions that we had in our council-supported compromise, it's possible to build a building that's perhaps 300 feet long with a continuous facade that's unbroken and unarticulated. So that would be a very dominating presence in our neighborhood. The church across the street, which is down grade from the Elm Terrace development, is 31-foot from grade to the highest point on the ridge line as a sanctuary. So even part of Burrlynn's property is loaned SF 3. The rest of it is unloaned zoned. So we also think that the expectation that it should have been zoned MF 1 probably wasn't there at the time the property was purchased. But all we've ever really wanted is to transition the architectural type, the housing type, the scale, the building mass, etcetera, from a deed restricted one-story neighborhood to what will be a more dense development on the state school property at a future time. So along the band of exposition where those two things intersect, it seems to make good planning sense for there to be a band of two-story townhomes, perhaps that are -- that provide that tangs that we were talking about. And our council-supported compromise from 2008 that we worked so hard on allowed for a density that's 280% greater than the density of our neighborhood. So we made a lot of concessions in our compromise that we felt were -- that considered all the factors in balance. The desire for more green building and more you are -- incorporating urban concepts, but still respecting existing neighborhoods and transitioning. And since the property is 210 feet deep, having a band 75-foot across the front where only two story townhomes can occur, which are subject to the articulation standards. McMANSION ORDINANCE SEEMED Very reasonable because in the back the SF 6 buildings can be there and the other -- there are other issues that can be incorporated. Thank you.

Mayor Leffingwell: Thank you. Questions? Next speaker is August Harris. And you have some folks to donate time to you. Joyce . Okay. Michael Curry. Eva Riley. You have 15 minutes.

Evening, Mayor Leffingwell and councilmembers. I brought a map that we're going to put up in a second and I found it amongst my dad's papers last night as a matter of fact. It's an interesting map that I think you will all enjoy. It's a survey from 1925. And that shows the Brackenridge tract in 1925. Ironically the municipal golf course is very clearly defined there. In light of recent events, we as the Juan community had considered withdrawing from the process or requesting a postponement today. We decided to go ahead and proceed with the hearing. When our planning process started we had two clear goals. One, to protect our existing residential neighborhoods and two, to plan intelligently for increased residential density as well as additional retail and commercial redevelopment on portions of the Brackenridge tract in the Austin State School properties. Had we been told at the outset that the Brackenridge tract would or

might not ultimately -- would or might ultimately be excluded, we never would have entered into this horrendous process. Had we been told prior too to the inception of the neighborhood plan or early on in the process that the city had decided to allow no meaningful planning of either, we would have either withdrawn then our request or withdrawn from planting process altogether, thus saving time and scarce resources. Three years of our lives would have been far better spent under the circumstances. There reached a point that despite the futility of the process, we thought it best to trudge through to the conclusion of this experience. We have a neighborhood that works and works reasonably well. Staff more than a year into the process recognized this, but we were and continue to be under threat by both the university of texas and the state of texas. The most pressing of the two is the brackenridge tract. For four years now, florence main and the university have held west austin and various other stakeholders hostage. President bill powers has said all he cares about is money. With only token input we still have no clear idea of the direction that the brackenridge tract will take. Of note roughly 23% of the planning group in the west austin area and 28% of the west austin combined neighborhood plan as a whole is either owned by the university of texas or the state of texas. To not be able to include such a significant percentage of the total planning area in a plan is by its very nature renders the plan itself far less relevant. The planning area, absent these two tracts, is a highly stable neighborhood that by and large works well and is an asset to the city. Unfortunately city staff decided to exclude the brackenridge tract from our plan. This exclusion prevents us from planning for additional development in the place where it is most likely to happen. The exclusion also makes us look to some look a nimby neighborhood that won't accept the fact when we were willing to accept the retail albeit in a way that protect our existing neighborhood. When this process we were told let your voice be heard. We were told neighborhood planning is an opportunity for diverse interests to come together and develop a shared vision of their community. We were told that the neighborhood plan would provide a clear picture of the type of development they would like to see in the future. These are all quotes. A framework for zoning and land work decision disition and direction to the city regarding future capital development projects. for three years of meetings we participated in the process. We followed the rules. We've worked hard to address brackenridge because it is the most pressing development concern in our neighborhood. It should be added that we have worked cooperatively with cooper robertson and others through the tument , though cooper robertson and the university of texas declined to cooperate throughout the neighborhood planning process. If you refuse here to include the brackenridge tract, you have dismissed the will of the people that supports you, you should say to florence main, bill powers and the university of texas that now is the time to enter into serious negotiations for the acquisition of our most valuable urban green space and our most valuable regional recreation opportunity, lions municipal golf course. Within the next nine years the original term of the brackenridge development agreement will expire. Sites available for redevelopment now under the agreement will include nearly 75 acres along lady bird lake currently occupied by affordable and diverse - owned brackenridge and colorado apartments. The planning area has 5320 dwelling units. Cooper robertson and partners have submit twod master plans as you know to the board of regents. The less intensive, but equally ill conceived brackenridge park plan if adopted would add over 6,000 dwelling units for an increase of 113 percent. The other plan calls for far more. Other than downtown, few if any neighborhoods are facing this level of densification. Even an addition of 2700 dwelling units or the equivalent of mf 4 on the brackenridge and colorado apartment tracts would recommend approximately a 50% increase, again far more than most neighborhoods citywide are facing and perhaps an unstailable number based on the environmentally sensitive natur virtually all of the tract, and schools and roads, both

of which are at or overpass exasty at this time. Given the enormity of what will happen in some form, consideration of infill or any other strategy for densification is inappropriate in planting area at this time. Aside from the graduate student housing, we do have pockets of older, far more affordable stock, including the apartments along enfield and west 35th street. You will hear more about those later. Staff recommendation and its encouragement given to certain property owners for zoning changes along west 35th street could in fact have the effect of eradicating the affordable housing stock there by especially boldening redevelopment. As an example of what could happen, apartments on Some look a nimby neighborhood that won't accept the fact when we were willing to accept the retail albeit in a way that protect our existing neighborhood. When this process we were told let your voice be heard. We were told neighborhood planning is an opportunity for diverse interests to come together and develop a shared vision of their community. We were told that the neighborhood plan would provide a clear picture of the type of development they would like to see in the future. These are all quotes. A framework for zoning and land work decision disition and direction to the city regarding future capital development projects. for three years of meetings we participated in the process. We followed the rules. We've worked hard to address brackenridge because it is the most pressing development concern in our neighborhood. It should be added that we have worked cooperatively with cooper robertson and others through the tument , though cooper robertson and the university of texas declined to cooperate throughout the neighborhood planning process. If you refuse here to include the brackenridge tract, you have dismissed the will of the people that supports you, you should say to florence main, bill powers and the university of texas that now is the time to enter into serious negotiations for the acquisition of our most valuable urban green space and our most valuable regional recreation opportunity, lions municipal golf course. Within the next nine years the original term of the brackenridge development agreement will expire. Sites available for redevelopment now under the agreement will include nearly 75 acres along lady bird lake currently occupied by affordable and diverse -owned brackenridge and colorado apartments. The planning area has 5320 dwelling units. Cooper robertson and partners have submit twod master plans as you know to the board of regents. The less intensive, but equally ill conceived brackenridge park plan if adopted would add over 6,000 dwelling units for an increase of 113 percent. The other plan calls for far more. Other than downtown, few if any neighborhoods are facing this level of densification. Even an addition of 2700 dwelling units or the equivalent of mf 4 on the brackenridge and colorado apartment tracts would recommend approximately a 50% increase, again far more than most neighborhoods citywide are facing and perhaps an unstaibable number based on the environmentally sensitive natur virtually all of the tract, and schools and roads, both of which are at or overpass exasty at this time. Given the enormity of what will happen in some form, consideration of infill or any other strategy for densification is inappropriate in planting area at this time. Aside from the graduate student housing, we do have pockets of older, far more affordable stock, including the apartments along enfield and west 35th street. You will hear more about those later. Staff recommendation and its encouragement given to certain property owners for zoning changes along west 35th street could in fact have the effect of eradicating the affordable housing stock there by especially boldening redevelopment. As an example of what could happen, apartments on enfield that had leased for 600 to a thousand dollars a month were demolished several years ago and replaced by condos that currently are listed for approximately \$450,000 apiece. That means the mortgage payment alone is over \$3,000, not including property taxes, note including insurance and not including condo fees. While there is text in the neighborhood plan that encourages preservation of these pockets of affordability, we ask the council's help in coming up with solutions to avoid the loss of these affordable

projects. Every tear-down, whether it is single-family or multi-family in the planning area results in far more costly dwelling units. This is the nature of our real estate market in west austin, desirable or not. It should be underscored that we do not oppose all density or redevelopment, however density should be appropriately sighted and be compatible with its environment. Within the text of the plan we have identified specific areas for both infill and for increased density, notably those parts of the brackenridge tract and state school that are sufficiently buffered from single-family residences as well along lamar boulevard, our corpus christi between 3 thid and 38th street. We have insist that had there be appropriate relationship between infrastructure, schools, utilities and transportation resources, and development, and respect for our cherished and jeopardized green space. Our tools and utility in the planning area are among the oldest in austin. And are showing signs of strain. In addition to appropriate residential development, we are supportive of our existing small businesses and want to find ways to retain them as a vital part of our neighborhood in addition to creating opportunities for limited non-destination serving retail. We just got the motion sheet for today's hearing immediately prior to beginning. And we had submitted to council a list of the motions that we supported along with some recommendations. In receiving the motion sheet we found a number of changes in order. So we've scrambled. I believe that y'all all received that earlier today. We scrambled because those numbers won't line up with what you were presented. So if you will indulge me, and I may have to take off my dallas for a minute, but I'm going to run through the motions if you would like. I'm not going to read them, but I'll tell you which ones that we're endorsing or supporting. Motion number 1, motion number 6, motion number 7, motion numbers 15 and 20, motion 16, motion 12, motion 18. I'm sorry, I'm going too fast.

Mayor Leffingwell: Yeah, you went too fast a long time ago.

there are one or two motions missing that we couldn't find. I'm happy to provide it to you off dais.

Mayor Leffingwell: So when you say you're supporting the motion, the proposed action planning commission recommendation --

correct. These are motions that have gone through subcommittee and then through planning commission and we're supporting what's moving forward.

Mayor Leffingwell: You're not supporting the neighborhood stakeholder recommendation.

The neighborhood stakeholder recommendation.

There are some differences in what appeared on the motion sheet and what was approved at planning commission on -- on which one?

On any particular motion I'm happy to tell you which -- we can go over it again. Motion 1 at the request of councilmember morrison, motion 1, motion 6. And these are planning commission recommendations. There are those that we do not agree with or that there are modifications to, and I'll get to those. This is just a consensus across the board. Motion 1, motion 6, motion 7, motions 15 and 20. We're not -- motion 16, motion 12, motion 18. Motion 25. And motion 26. With modification, motion 2, and the language under

2, staff had eliminated our recommendation of the word or the two words single-family with harmonious residential development. We were adamant that that be included and that was the stakeholder consensus recommendation. Then motion number 3 is of course the brackenridge tract. And I won't go through that again. The following items were where we differed from both staff and with the planning commission. And those were motions 5, motion 10, motion 11, motion 13, motions 23 and 24, both of which have valid petitions. And for those we are asking that you move for adoption of the neighborhood stakeholder consensus recommendation. I'm sorry it goes all over the place. I see confused looks on the dais.

Mayor Leffingwell: Next speaker is michael canetti. You have time donated to you as well. Gwen. Okay. Catherine kyle. Got you. Eng he will. Okay. Michael, you have 12 minutes.

Mayor, councilmembers, mike canetti, I'm with west austin neighborhood group and an active participant in this entire process. I am primarily addressing the brackenridge tract issues that I believe are part of what is now motion 3. You're familiar with the neighborhood. And if this clicker works -- the next image shows a view of the neighborhood and it's a lot of trees, a lot of single housing, but if you look at the land use -- next slide, please. You see the current land use map. And a big part of -- really the biggest reason that we have been here is that the lions and brackenridge tract are a huge part of what is our neighborhood, and the austin state school is also as seen in the current land use map a very big part of our neighborhood. Next, please. It's not doing the transitions. What we have here shown is the current future land use map that staff is recommending. And you cannot see that the brackenridge tract has been excluded, but we've listed here a variety of density promoting measures that are in our plan as it stands now. And I will not belabor them, but we have added multi-family, we have large lots where duplex and secondary apartments can be added. We actually have some consensus language for the austin state school tract that talks about having more intense development concentrated in the northeast corner. But the b opportunities for our neighborhood are at the brackenridge tract if it's done properly. Next slide, please. As kathy alluded to, we have two reasons to start this process, council. It was to protect our neighborhood and to plan for what we think is coming. We've tried to show both objectives in terms of the areas of the neighborhood that are affected. The brackenridge tract in black there has been excluded as you know, and in the next slide we want to demonstrate that there's two reasons why we feel that we have to have some input on what planning goes here. You see here is one of the cooper robertson proposals that has been developed and submitted to the board of regents. On the next slide you can see an example of development that might occur at the austin state school. With these two scenarios, either threatening or likely to happen, it would change our current land use map, which you saw before, to something like what we see next. We really are concerned that if we don't have some opportunity to talk about what happens in the tract, we could have our entire population plus inserted into the west austin planning area. This would be a problem for our transportation, a problem for our schools, a problem at many levels and we really thought we started this process to have a chance to weigh in on how this would be happening. What we have proposed and what we have asked city council to support is a plan that is based on the brackenridge development agreement terms that were negotiated between the city and the university. Under those terms at least as we were able to map them, you can see on the lower area there where the brackenridge tract would include the golf course, but also some mixed use and also the existing biology field research lab. The total density could be increased -- this is again for the wang planning area of 20% increase in density if we were to follow the terms of the agreement that you see and

the city negotiated. We have worked hard. We've been working at this for three years and we would ask the council to give voice to the community's desires and efforts on this process. We have tried from the beginning to have input on what goes on here. We have proposed specific language in the land use chapter and I don't know if it was clear from Paul's presentation, but the planning commission supports this language. We really request that the council also support including this language. It doesn't oppose dramatic limitations. It says have your development in a way that is stepped back in intensity and that protects and observes the provisions of the Brackenridge development agreement. There have been a number of reasons listed by staff about why you should not include the tract. We would point to the city council resolutions that you have passed. And at the beginning of this process, you specifically said, and I've got the quotes here, that this plan is going to address future development within the boundaries of the plan, including the Brackenridge tract. We have three city council resolutions supporting that with that statement. We have a concern that the tract could be sold and the plan is a great vehicle to address that situation. Other parts of the Brackenridge tract have been sold. This is not without precedent. We wanted an opportunity to provide guidance on zoning, provide guidance on land use decisions, and that's why we went through the process. It's really quite frustrating to think, sorry, we don't want to hear from you now. The staff has explained that the flux of the conditions of the property were not taking the tract into account. We think the reverse is true if this thing is in flux and it's probably going to be sold, let's use the plan to help guide what happens in the future. The city has authority to control the zoning in this area by the terms of the Brackenridge development agreement for non-governmental purposes. We would ask you to please keep in mind. I will not belabor these issues. There has been concern about the precedent of the East Riverside, Oltorf neighborhood plan and how they excluded the golf course from that plan. We think our plan is a different situation. We have a development agreement that's been negotiated by the city and the university. Our area is actually set back in the middle of a neighborhood whereas the golf course at Riverside is in the middle of a corridor and not going to cause as many problems as the Brackenridge tract would. In conclusion, we really hope that you will stand up for the community's desires to give some guidance here. We would like to be included somehow in the process. It kind of feels like this deal has been done already and it's sort of frustrating, but I encourage you to support the neighborhood stakeholder's recommendations on the Brackenridge tract and plan. Thank you.

Mayor Leffingwell: Thank you, Michael. Next speaker is Mary Arnold. And donating time to Mary are Peter Barber, Lenore. Okay. Got you. Josh Farley, Francis McMATT. Mary, you have 15 minutes.

Hard to believe it's not 1973, but 2010. 2010. Okay. One of the things that I hope you all will understand is that the neighborhood is not trying to do anything illegal. The neighborhood does not want the council to do anything illegal. We're simply asking that the language, the thoughts that the neighbors have presented in their planning meetings all these years in some way be represented in our neighborhood plan. We're not trying to zone the Brackenridge tract. We're not asking that the Brackenridge tract land receive an NP designation. I think there must be ways in which this can be worked out. So that we'll be happy and you all will be happy. And we ask for the opportunity to do that. If the University of Texas has concerns about the particular language that we have drafted in objective 7 and 8, we would love to know about it and we'd love to discuss with them what their objections are. But we really don't know. Because we have not been approached by them with regard to why they object to having the Brackenridge tract included in the neighborhood plan language. With regard to the East Riverside language, the ordinance

that you pass -- that was passed adopting the east riverside plan included language about the goals of the east riverside plan. And that -- one of the goals that is mentioned in the ordinance is preserving the 18 hole riverside golf course. Now, the riverside golf course is part of the a.c.c. Tract and it was not put into the flum. But there is a goal in that plan in the ordinance stated that the neighborhood wants to preserve that golf course. And there are goals and objectives in the language of the plan mentioning the golf course and its preservation as well as many, many pages about the history of that golf course and the history of the city trying to work out a way for the city to acquire that golf course. So I don't think the east riverside plan is a good example to call a precedent for this particular situation. In the ordinances that the council passed in march of '08, and in october of that year, there was language that sort of talked about coordinating with the university, but it wasn't as the staff said. In other words, offering to work cooperatively. That probably didn't happen. In the october resolution, the wording was that the city council respectfully requests the board of regents to work with the city to meet the following goals. And all of those -- most of those six goals, five of the six goals are ones that the neighborhood supports and their language that we would like included in the draft of the neighborhood plan. We realize that the brackenridge tract and the university of texas, that the brackenridge tract is just a small part of the total relationship between the city and the university. And we realize that the neighborhood plan is not going to solve the problem of the university receiving adequate compensation for the brackenridge tract and for leaving the golf course as a golf course. We realize that there are other things that the city and the university can talk about, and that hopefully a resolution for the brackenridge tract could be reached in the course of much broader conversations between the city and the university. Chancellor segurroh is i think interested in that broader context. hillis at the university has proposed along with his college and other faculty members a plan for the field lab and a little bit of expansion into other portions of the brackenridge tract. That the neighborhood has seen and supports. And that plan could gain income for the university of texas in a different way than the cooper robertson plan is proposing. So we ask for your help, for your indulgence. If you don't feel comfortable with the current language that we're proposing, give us a chance to revise that and to work with you on that. But please allow the brackenridge tract to be more fully put into our neighborhood plan in terms of perhaps a separate map that is listed as being prepared by the neighborhood as a future land use map based on the brackenridge development agreement as a separate page, just as in the east riverside plan the citizen advisory board prepared a desired green space map that is including in their neighborhood plan and shows the golf course as desired green space. So I think there are ways that it can be done. Please work with us on it. Thank you.

Mayor Leffingwell: Thank you, mary. You had seven minutes left.

Excuse me, mayor.

Mayor Leffingwell: Councilmember cole.

Cole: I happen to know that you are a university graduate and an orange jacket. You smegd that I was really indreeg treeged by. And you said that you recognized that the city has a number of interests with the university. And you would like to see a conversation in a broader context.

Yes.

And then you kind of went back to -- this is what we want on this tract. But because you've been kind of at this process a long time, I would just like to hear your comments on what you think a broader context would look like.

In 1973 the broader context was that the city gave the university the street through the campus and paid to move red river around the campus. In neant 89 agreement there was just the brackenridge tract. And the city and the university worked out a way to have more development on portions of the brackenridge tract in exchange for leaving the golf course and the field lab as is. So now we're at 2010 and one of the things that the university is interested in is a medical school in austin and more medical facilities in this area. And our state munie group and our neighborhood are interested in seeing whether or not there are ways that the city and the university can work together to benefit each other and the community. And at the same time provide impetus for the medical development in this city as well as preserving green space.

Mayor Leffingwell: Next speaker is sarah mader. Welcome. You will have three minute and be the last speaker before we break for live music and proclamations.

There is one other speaker who will be talking about --

Mayor Leffingwell: I know there are, but we will have to take a break.

Okay. I understand. Garrison keeler in the prairie home companion has some special food that gives shot people the special courage to do what needs to be done. So here I'm talking, I'm not a person that normally talks. I'm sarah mader. I came to university here in the '60s and I moved into the deep eddy area in '85. And I've seen quite a lot of changes happening there and most of it is pretty good. And I like the direction that it's moving. There are some things that came about because of the neighborhood planning process that need some attention here. It's a very small matter considering the brackenridge tract and some of these other bigger things, but it's going to make a big impact on the deep eddy area. And that's why I would like to talk about it with you. When -- years ago there was a commercial zoning put on just a few little properties in the deep eddy area. During the neighborhood planning process, we could change that from being commercial and that's a good thing. When you look at the three properties here, you can see that at 700 hearne there's apartments there. The staff is suggesting that there should be the zoning change to something much more than what it really needs to be. First of all, the staff thought there were 38 units there, but really there are only 30 units there. The planning commission thinks that we should have zoning that would be mf 3 with a maximum height of 35. And the neighbors who went through this planning process, we would agree with that. We do not agree with staff making it bigger than -- bigger zoning than it needs to be. And for the -- and the same is similar to on the four-plex that's on pruit street, that lot isn't even big enough for a duplex under ordinary circumstances. It has a four-plex there now. The city staff is wanting it to be mf 2. The planning commission said that too just because, but we're thinking it's sf 6 would do fine for what it is. And especially that all the rest of the neighborhood is single-family and 35 feet in height is much better than a 40-foot height. And the intensity of development and the impervious cover issues, all of those at the higher zoning would make such a bad precedent there. Totaling all these properties together is more than half an acre. When you start to think that the rest

of that block as you go down that block, there are lots of houses that are going to go away. These houses are what you see in the neighborhood now. And a lot of the single small one-story are going to go away. And so it the precedent of what is going to happen going down into the future down the block that we're most concerned with. We would like you to vote for the lower zoning, please. Thank you very much.

Mayor Leffingwell: Thank you, sarah. 30 and time certain for our live music and proclamations. So the council will now go into recess for approximately 45 minutes. He's made appearances at south by southwest and has shared the stage with such ablgths as jimmy smith, leon are rus sell, guru and jurassic 5. His latest album is available now and you can find him live on friday, august 27th at central market on south lamar. So please welcome bruce james.

Morrison: Thank you, bruce. I appreciate that and I know everybody else did. So can you tell folks out here, do you have a website? Where can we find out about your music?

You can go to com/brucejames and there are links to pretty much every social networking website we are on. More than I can remember or name.

Morrison: Excellent. That's great. And where can we buy your music?

Waterloo records. At waterloo records exclusively in town. You can also get it on itunes or any of the digital aggregate. But I prefer you go to waterloo records.

Morrison: You heard it here. And then the next time you're going to perform around austin that we might be able to catch you?

Yeah. We'll be at central market westgate doing the grocery store slip next friday. And then eddie v's next saturday. And then I play right across the street tuesday, wednesday, thursday at three forks every week. So I'm really close. Y'all should come by and see me.

Morrison: Lots of opportunity to see you then. If you come up here, I have a proclamation to read for you. It says be it known that whereas the local music community makes many contributions toward the development of austin's social, economic and cultural diversity. And whereas the dedicated efforts of artists further austin's status as the live music capitol of the world. Now therefore I on behalf of lee leffingwell, mayor of the city of austin, texas do here by proclaim august 19th, 2010 as bruce james day in austin. Congratulations.

Morrison: Not only is it bruce james day in austin, texas, it also happens to be world breastfeeding month in the world. So you guys have really hit the big time today, getting to see this. Anyways, I'm really pleased to be able to be here to recognize this. It's the third year that central texas healthy mothers, healthy babies coalition and the austin travis county health and human services department program have teamed up to celebrate world breastfeeding month in austin, texas. Texas actually has a very high -- actually in austin, texas we have a very high breastfeeding rate, which is terrific. I'm sure you will talk a lot about all the great benefits of that. And we're proud to have the program here in austin. And I actually as

a young mother, so I'm especially excited to be able to present this to donna. I'm going to read this proclamation and then you can tell us some of the important things that I know you're here to tell us. So the proclamation says, be it known that whereas breastfeeding affords healthy benefits that no other infant food can, providing immunities and optimal nutrition to nursing infants. And whereas breastfed infants have fewer ear infections, upper respiratory diseases and a decreased risk of several chronic diseases later in life, including obesity, diabetes and asthma, while mothers who breastfed have reduced risk of breast and ovarian cancer and osteoporosis. And whereas we applaud the austin-travis county health and human services department for promoting the benefits of breastfeeding during this month. Their team, every wowns counts, spreads the message that every single ounce of breast milk counts towards the health of mom and baby. Now therefore I on behalf of lee leffingwell, mayor of the city of austin, texas do urge moms to breast feed for as long as possible and do here by proclaim august 2010 as breastfeeding awareness month in austin. Thank you so much for coming.

thank you, councilmember morrison, for your support and for joining the health department in celebrating world breastfeeding month. During august there is a worldwide and local campaign to increase the benefits of -- increase awareness of the benefits of breastfeeding and to also increase public support. And this year's theme is every once counts. Supporting moms beyond the first few weeks. And this is extremely important because breastfeeding exclusively for the first six months of a baby's life can yield significant benefits to the mother and the child that last a lifetime. And here in texas 78% of new moms begin breastfeeding, and as councilmember morrison said, we have some great rates here in austin. And our supplemental program where 89% of our moms were initiating breastfeeding in the month of june. So while we're very proud of that accomplishment, we also know there's a lot of work to do. Since only 34% of moms are exclusively breastfeeding until the third month and only one in 10 moms are exclusively breastfeeding by the sixth month. So this indicate there's a significant and a great need of support for all of us to help the moms achieve their personal breastfeeding goal. And we recognize that it takes more than our program alone to achieve this, and to influence the mom's decision and to provide support. So that's where we need austin as a community, health care professionals, families, to support moms and you know to help them reach these goals. And we're very fortunate here in austin because as program we have moms place lactation center. And there we have dedicated lactation consultants and breastfeeding peer counselors who are there to provide assistance to our moms, but they also answer a hotline that can be accessed by anyone in the community who has breastfeeding questions. And that includes health care professionals. So we really encourage everyone to access this service and to help with the support there. We also want to invite all of you to join us for the third annual keep austin breastfeeding event that will take place here tomorrow at city hall from 00, and it will include a lot of our local community resources of breastfeeding. We'll also have breastfeeding peer counselors here available to answer questions. And it's also we'll be presenting heat row of austin breastfeeding award. So we encourage you in this effort to keep austin breastfeeding and to support moms beyond the first few weeks. Thank you.

next up we'll have mary lee leffingwell to do the next proclamation.

Mayor Leffingwell: It's my pleasure tonight to honor one of our long srving community volunteers, he willner McKinney has served on the design commission for I don't know how many years. Ever since I've been on the city council, I know. 13 Years? Yeah. That's longer than I've been on the city council. Some

days it doesn't seem like it, but it really is. And Eleanor is an outstanding landscape architect. We recognize that because we actually designed the landscape here at city hall. You know the landscape here at city hall if you're sitting facing me is designed to be a natural Texas landscape, but the question arises then what is a natural native Texas landscape, especially here in Austin, Texas where we're kind of on the -- we're on the border. We've got one kind of landscape to the east and another to the west. So that's exactly what we have here at city hall. To the west of the center line of the front door we have a natural landscaping that is typical of the hill country, and to the east of course we have landscaping that's typical of the blackland prairie to the east of Austin. Eleanor has also worked on our green roof program and gotten city hall certified as a green roof building. So many accomplishments. She's also served strenuously on the waterfront overlay taskforce, which is a tough job that a bunch of our volunteers took on a few months ago. She's now volunteering from the design commission after all these years of service. We appreciate your service. We know you will still be around. We know where you live. We may be able to find your phone number. So with that I will read this distinguished service award to you, Eleanor, in appreciation of what you've done. Distinguished service award for her collaborative efforts, commitment and valuable input during her 14 year tenure as a member of the design commission. You forgot one year there, Eleanor. Eleanor McKinney is deserving of public acclaim and recognition. MS. McKINNEY HELD SEVERAL Officer positions during her time on doesn't commission as well as representing the commission on the waterfront overlay taskforce. She previously served on the parks and recreation board for two years, landscape architect. She played a vital role in the landscaping of city hall, creating a sustainable design and incorporating native and adaptive plant materials and irrigation. MS. McKINNEY ALSO HAS Volunteered her time and energy to the green roof advisory group and will continue to do so. This certificate is issued in acknowledgment and appreciation of her many, many, many years of voluntary service to our city. Presented this 19th day of August, the year 2010 by the city council of Austin, Texas. Signed by myself, Lee Jeffingwell, Mayor of Austin. And with the names of Mayor pro tem Mike Martinez, Councilmembers Riley, Shade, Morrison, Spelman and Cole. So thank you again. Eleanor, would you like to say a quick word?

a lot of friends.

Is this mic on? I have a speech. I'll try. I thank y'all and many of you out there I've worked with for a long time. I really appreciate everyone that's shown up. It means a lot to me that you came tonight. So I guess I'm now officially a village elder. with all the pluses and minuses of that term. I came to Austin in 1972. Yes, I'm one of those who want to claim that glorious early times Austin when it was a small town and when tolerance of all different lifestyles was the mode of the day. Austin raised me. It nurtured me, molded me, pushed me and forgave me. For this I'll always be grateful. My words to you today, each of us makes Austin what it is. It is our privilege to give back to this city, this wonderful city that the world is just starting to discover. This is it. This is our time. We are at the turning point of turning Austin from a small town into a prominent city of the world. How great is that? Well we are the ones that are going to be setting the legacy for the future. Great urban design affects all of us in our day-to-day enjoyment of the city. Design to either link us together as a community or the lack of it can split us apart into our individual households. Great public spaces are the living rooms of our community life. Support them, advocate for them, fund them, participate in their design, and then enjoy them with your family and friends. I'm leaving the design commission, but I'm not leaving my passion for great public spaces. My goal is to add public

involvement services to my landscape architectural practice, to bring more participatory design to the public. I hope to see all of you in the future as we continue to make our great city and to see the progress of our joint civic pride and our community service. This creativity that we have is sometimes called weirdness, but it's still all there. Anyway, thank you, mayor leffingwell and members of the city council and everybody else here. Thank you so much. austin rocks. test test sabino blank sa bino rent ri a clan boswell rent ri a renteria harpst blank aguero rogelio moreno thistlewood he have rain efrain a villa avila we're in the middle of our public hearing for items 54 -- 53, 54 and 55 together. We're holding all of these public hearings at the same time, just to remind you. We'll pick up where we left off with the next speaker being thomas pontene, and thomas, you had bridge oat beneke donating time.

I don't need it. all right. You got three minutes.

before the break, -- live in the middle of the -- it's a small apartment complex that blends great with the neighborhood, has a lot of trees, and -- but it was zoned commercial so it has to be rezoned. What I would like to have is 23, go with the planning commission's recommendation. On item 24, go one step to the right with sf-6, and on item 25 go with the planning commission, which is sf-3. The reason why we want to do that is because it's a small neighborhood with a small house, having a big development, especially all these lots get bought by the same person, would really kill the neighborhood. Like we talked about, we're going to have high density in brackenridge, we're going to have high density of the state school. How high, we don't know, hopefully not very high, but this will kill the neighborhood to have a big building right in the middle of all the little houses. And so please keep deep eddy deep eddy. Thank you. thank you. The next speaker is steve amos. Steve amos, not here. Ann fips? Ann fips not here. Sorry, I can't hear you. You're going to donate your time to somebody. All right. Next is david weeland. David, you have three minutes.

Mayor, mayor pro tem, members of the council, i appreciate you giving me the opportunity to speak. My name is david weeland, and I live in tarrytown and I'm speaking in support of the proposed zoning of mf-1 versus sf-3 at 3215 exposition. I've had the opportunity to read pretty extensively what the city's objectives are looking at greater diversity, social, economic and cultural within the urban core creating sustainable neighborhoods, less emphasis on driving, more emphasis on walkability, increasing the tax base, particularly in the inner core versus on the marginal areas or reducing urban sprawl. And as I look at other neighborhoods in and around central austin, whether it be clarksville or hyde park or travis heights or bouldin, those are much more diverse neighborhoods than tarrytown and I say that as a resident. diguisepe came up here and said generally that area is wealthier and better educated and primarily anglo, which doesn't really represent the city of austin, and I look and I say what we need in our neighborhood is more density and what's planned at 3215 exposition to me makes perfect sense. And to share a little story with you, I believe all of you got my email, but I was recently looking for a house for my mother-in-law, for a condo for my mother-in-law or some type of for-sale housing and what I found is that the offering in tarrytown is woefully inadequate for somebody who's 70 years old who's eventually going to be 80 years old. Most of it has stairs. Most of it is obsolescent. Finding the right price basis on a square feet basis, we won't reduce the-square-foot cost but there aren't a lot of prts properties in tarrytown that are smaller in size like i understand this project to be, smaller in terms of square feet, living area unit. When I look at the aging parents that I have, the aging parents that people in tarrytown have, and when i

look at what is proposed for this property, it really makes a lot of sense to me that we need to increase the density, that this would be a great place for our aging parents to eventually live. I guess the final thing that I would say is I know there's a lot of discussion here about the precedent this sets for the state schools tract and the precedent set to brackenridge. We don't know what will happen with those tracts, as the neighborhood association has said. And I appreciate that. What I do know is there's an immediate need for some type -- for additional housing that would be able to accommodate an aging population. So thank you all very much for your time. thank you. Next speaker is gerald balaka.

Good evening, mayor leffingwell and council. My name is jerry balaka, and I'm here to speak about the properties that are on 35th street at jefferson. Are you-all familiar with where we are on the map? There's a group of five properties. It's 1.77 acres. This is a photo of one of the back yards on one of our streets, and the point of this photo is to notice that the properties that we're talking about are immediately behind them. There's no buffer, no alley. I mean, they are right there. Next photo, please. This is my backyard, down the street, and again, you can see 1805 and 1803, they're immediately right there. There's no buffer. This tract of land was platted in 1948, and the idea was to have businesses and homes, and so there's got to be some kind of cooperation. Next photo. This is a parking garage at an office building called jefferson at 35th, and this is the back side of it. This is what my view could be from my backyard. And one thing to notice is that on this part of it they didn't actually need any rezoning when they built this garage. Next photo. This is one of the properties that they used to build that office building, and they did need rezoning and we were able -- the neighborhood was able to negotiate this exterior. And so there's got to be some kind of cooperation or else it's just going to be very difficult. Next photo, please. This is a property that's at enfield and west lynn, and it's a difficult situation. We were told throughout the whole thing that we couldn't really put in design standards or anything and that we could rely on compatibility standards, and unfortunately, like in this case, the compatibility standards didn't really help make a good project, and they had their zoning, they were able to do pretty much anything they needed to. And so in closing, it's really difficult and expensive to own a home in central austin, and if you consider the view from my backyard and the proximity to these properties, it would be just devastating, really devastating for my property values if we didn't have a little bit of input on what's behind us, because it's right there. There's absolutely no buffer, and we are not opposed to appropriate development that tries to make some attempt to blend in, but what we really want is we really want the neighborhood to look like it has some planning, and that is my presentation. Thank you. thank you. Next speaker is michelle bensonberg. Welcome. You have three minutes.

Good evening, mayor and council members. My name is michelle bensonberg. I'm a long-time resident of tarrytown and an active participant in the neighborhood planning live on terraces on large estates on tarrytown. I live directly across the street from 3215 exposition, and my house has less than 2,000 square feet. I live on a very small lot. My house has no historical significance, it boasts no unique architectural details, it's a plain ranch house that was built in 1959. We are very concerned about what happens across the street from my house, and the reason is because of the precedent-setting impact of the use and zoning. And the reason that word has been used earlier, but the reason that it's so important is that the state sold off this parcel, and we have every expectation that this trend will continue. The land commissioner has issued a letter saying that -- don't count on this being a state school forever. And selling it as the state has a mandate to obtain the best price possible for the property. So if elm terrace is

zoned mf-1, as is requested by the developer, the state, when it sells off the rest of the tracts, will point to that piece of property and say, here, see, this is what you can do with it. Essentially the mf-1 zoning will set a baseline for the rest of the development for that tract. There are two aspects to our concerns. First is use of the property, and that's really a zoning question. The second is density and design. Today is really not the proper time to discuss either one of those things, and the reason for that is because the developer's proposals over this last three-year period has been a moving target. When we started he spoke about condos. Then he talked about adult living development. Now, today, for the first time we heard the word congregate care. We don't even know what congregate care means. That word was never used in the planning process. The neighbors were never given an opportunity to talk about congregate care during the planning process or to figure out what that would mean with regard to that tract of land. When we negotiated a compromise with the developer nearly two years ago, the ordinance that was proposed included conditional overlays and restrictive covenants. These are essential to the development of this property. Today the developer, in recommending mf-1, is not including any such guarantees for the neighborhood. Also important to this tract are environmental concerns. The headwaters for Taylor Slough sit right at the center of the Austin State School. The reason that the neighbors recommended that development be concentrated in the northeast section of the tract was not just because it looked good and because it was away from our houses. It's because that side and that part of the Austin State School drains to Johnson Creek. Johnson Creek then flows to Town Lake. It's not in the drinking water protection zone. On the contrary, Taylor Slough runs right along the southern boundary of the subject tract. It runs across my -- my lawn, through our neighborhood, through Reed Park and into Lake Austin. That drains directly into the drinking water for the city of Austin. This development is directly in the drinking water protection zone. That means that any kind of development that occurs on that tract is extremely environmentally -- it is an extremely environmentally sensitive area, and so what I would ask today is that we -- is that the council commit a single-family use and an sf-3 zoning. The reason for that is that this piece of property, because of its unique attributes, because it's adjacent to a single-family neighborhood that has severe deed restrictions because of the environmental concerns, because we even today do not have a definite proposal as to how this property will be used, sf-3 provides a good default zoning so that when the developer finally comes up with or reaches a final decision as to how this property will be developed, he can come back to the planning commission and come back to council with that proposal and we can address it at that time when that property will get the attention and consideration that this unique piece of property deserved. Thank you. Thank you. Is there anyone else in the chamber wishing to speak on 53, 54 or 55? I see there is. Welcome. You have three minutes.

Yep. Mayor, council members, my name is Gwen Julius, and since you've combined everything I'm not sure which number this falls under, but I'd like to speak about Tarrytown Shopping Center. There has sort of been some difficulties as the shopping center was early in the plan talked about moving in one direction and then later on in the plan moving in another direction, and I don't know that we actually do have a neighborhood consensus on where we are with the shopping center, but I'd just like to talk for a moment about what the shopping center has meant to our neighborhood and what it continues to mean to our neighborhood and how that impacts our livability and walkability in the neighborhood. When I first moved to the neighborhood from Parkville 15 or 10 years ago, that shopping center really represented a core value in our neighborhood. It had the Holiday House, which I'm sure many of you -- I know Chris Riley grew up in our neighborhood and probably spent many after-school days there, had Tarrytown Pharmacy,

the post office, a hardware store, texas french bore, a florist, a liquor store, shoe repair. There is a little on that that will monthly scrib store, there was a -- ophthalmologist, a children's store. It all the things you could want in a town center. Unfortunately most of those businesses are no longer there. There was a grocery which was a wonderful little store. You could get everything from bottles of wine to fresh produce delivered by boggy creek once a week. They had the best cinnamon danishes that were delivered hot out of the oven every morning. I could get up and find out I didn't have any milk and go there in my slippers to get a fresh quart of milk. So it's just so sad to see the deterioration, and it's deterioration by neglect of the owner of the shopping center. And so we've had all the things that we're suffering for in our city right now to have -- striving for right now to have good walkability in our neighborhoods. And it has nothing to do with land use. It has nothing to do with zoning, it's just deterioration by neglect by the landowner. And so as we struggle with our processes here, we need to find something that we can do with landowners in our neighborhood who choose to punish the neighbors, so to speak. I recently did a walk score. I'm sure you're all familiar with that web site, and it gives me a walk score of 69 for my house, which is three doors away from the so-called vegetarian shopping center. That score is a little bit incorrect because it lists some businesses that are no longer there, and just to give you a rough comparison, if you do a walk score for us right here at city hall we're at 89. If you can bear with me I'm going to take another couple of minutes. I know there's other people that have donated time that we haven't used.

Is there anyone that would like to donate time to ms. juis?

I know ann had more time and other people that had time we didn't use. Well, we had three separate items originally.

how many?

mayor leffingwell: okay. Mary arnold will donate her two of her unused minutes. Go ahead.

So we have -- we had, really, a good walkable area in our neighborhood. So the key thing is here that we don't have a lot of things in our neighborhood that we really need to change. And so I hear in this planning process that we're a neighborhood and that we're not wanting to accept a lot of density, we're not wanting to change things in our neighborhood. And my point is simply that our neighborhood really does work as it is, and there are a lot of good things about our neighborhood as it is. So please take that for what it's worth, and we don't always need to change things. We just need to improve things and work with the people who are in our neighborhood. Thank you. thank you. Is there anyone else that would like to speak on 53, 54, 55?

Mayor, I'm michael curry, I would like to. How many minutes do I have? which item did you sign up on?

54. three minutes.

Three minutes? Okay. Well, I want to speak on the five properties at 35th street that -- these are five tracts that adjoin single-family homes, and jerry balaka lives in one of those homes and you just heard from him. They are zoned lo, and by code provision those properties are conforming uses and

compliance structures. We are here because staff seeks a neighborhood mixed use flum followed by a local office mixed use zoning. We urge the council to follow the recommendation of the planning condition and give these properties a neighborhood commercial flum designation while maintaining the current zoning. A neighborhood commercial flum conforms with the existing use. The community expressed overwhelming opposition during the planning meetings to the staff's proposed mixed use flum designations and zoning changes. The adjoining neighbors have filed a petition, a valid petition, in opposition, and the bryker woods neighborhood association fully agrees with the community and the neighbors. These properties contain affordable housing, probably the most affordable housing in the windsor side of the planning area. Rezoning them would promote their redevelopment, thereby eliminating the existing affordable housing. The city council, that is you, explicitly excluded these properties from the vmu district. The staff's recommendation is inconsistent with your prior decision. If the properties are rezoned, the adjoining single-family neighbors, and I think this is one of the most critical points, and the neighborhood as a whole, will lose any voice whatsoever in a future mixed use project. A mixed use development project, which is going to adjoin their homes, which is going to be there for 40 or 50 years. That would be extremely unfair, to say the least. Adopting staff's recommendation over the recommendation of the planning commission, the community during the planning process, the neighborhood association and the adjoining neighbors would not only be very bad policy but would reflect a failure of the neighborhood planning process. If there's any questions or concerns I'd be glad to address them. Thank you. Questi questi ons? Thank you. Ms. glasgow?

I believe I may have had additional time left, and if not, if it's possible, boon almanza is here to donate some time. i didn't keep track of your time, did you?

I didn't use all 12 minutes. The buzzer didn't go off on me. So -- I probably have maybe two minutes left, but -- but boone almanza is here -- I'm sorry, if we start doing that we're going to have to do it for everybody.

Okay. I understand. I just -- is there anyone else signed up to speak on 53, 54, 55? Paciano?

I have the slide I gave you? Good evening, mayor leffingwell, mayor pro tem martinez and members of the council. I'm joyce spaciano, the vice president of the bryker woods neighborhood association, I'm also a member of the west austin neighborhood group executive committee and I'm on the anc and I attend many meetings and hearings, more than i care to. I've been working on the -- on zoning and building permits cases for the neighborhood for some time now and I can tell you that we are not nimbies, not in my backyard, but we are snimbies, in my backyard. To be sure that you and the elected officials have something to say about the future development project on west 35th street we ask you to keep the neighborhood commercial flum designation and the lomp zoning decision so that the neighborhood stakeholders who overwhelmingly voted for them -- for those categories and have some -- can have some say in future development. From a zoning and building permits perspective, what's on the screen is an example of why it's really a good idea for the neighbors, the planning commissioners and the council to maintain input into a project. This project is on the southwest corner of jefferson and west 35th street. It was zoned properly for a bank. However, during the site plan review process, the commercial design standards were administratively waived before the community was notified it could be an interested party.

This was clearly too late in the process. We asked the developer for some minor changes to the plan, but the developer did not have to accommodate us at all. This is now basically a dead site in our neighborhood. The convenience store that once drew pedestrian traffic from Bryker Woods and Oak Wood Heights is gone. When the store was a 7-eleven we referred to it as our local police substation because police officers would stop there in the wee hours of the morning for a snack. They were often joined by a neighborhood dog looking for his snack of a free hotdog tossed to him by the staff. Believe me, we appreciate the presence of the APD in our neighborhood at any hour of the day. Permitting staff is overwhelmed with work and there seems to be significant turnover of that staff. Situation makes it easy for some permits to be issued in error and some to be granted in error that wouldn't normally be. By maintaining the neighborhood commercial floor designation and the low-density zoning on these West 35th Street properties, the neighborhood planning officials and you can help make sure there is a good project proposed for those properties in the future. Thank you, if you have any questions -- thank you. When we started these cases I announced we were going to do all three public hearings at the same time, 53, 54, 55. Evidently some did not get that message, so to err on the side of -- to err on your side, I guess I should say, I want to give everybody the -- I don't want anybody to feel like they didn't have the opportunity to speak. So if you feel like you have been short-changed on your speaking time and you want to speak on 53, 54 or 55, just come on up and you can have three minutes, just to make sure nobody gets short-changed. And I believe you're next.

Mayor Leffingwell, council, my name is Donna Shipley and I live in the -- near the Tarrytown Center, and I want to just speak on that, and just reinforce what Glen Wise said, that we are very disappointed with the owner of the center, who is an ideologue and who is end of the -- has ended the lease of every single useful business except for there's still a cleaners. The pharmacy left last -- this month, and we don't really know what to do, but my point is that I have a slight complaint with the process of the -- of the floor, and that is that we felt that the best way to have some control is not to change the zoning in Tarrytown -- at the Tarrytown pharmacy at this point when there's no buyer, there's no hope, as we know, of there ever being a change. I think the woman wants to keep it going after it's sold and put restrictions on it that would turn it from a commercial center into something else that has nothing to do with animals. So I would just like to say that there was a meeting of 100 people that said absolutely we don't want any change in the zoning for the Tarrytown Center, and I feel that we were a bit misrepresented by staff when they left us off the planning commission and said it was uncontested. So that is our reason for sticking in the mud this way, is that we have absolutely -- we do not want to help her to continue, or to overdevelop or -- we want to have some control in the -- when the property is sold, if and when it is ever sold, so -- thank you. Thank you. Ms. Glasgow? You can come back up and have your three minutes.

Thank you, Mayor. I just simply wanted to take the opportunity to apologize to my neighbors for using the term congregate living. I use that because it's the umbrella definition for assisted living. They have that because we have an email that was sent Herndon and Wilson, Kyle and Powell on June 17 of this year asking them to meet with the assisted living developer that was considering a -- had a contract pending at the time for this property and they declined to meet. So they have heard of assisted living. They just have not heard it under the terminology of -- congregate living. I just want to say that so there won't be any misunderstanding we were misleading them in the terminology, but they were aware of previous going to need. Thank you. Thank you. Next speaker? One of you. Come on up, Mr. Merl.

Good evening, my name is Steve Buehrle and I just wanted to clarify a couple things I heard during the presentations. Glasgow, for mentioning it is congregate living as opposed to assisted living. That is something we were discussing as we were approached by a few of those service providers. Another inaccuracy that I'd like to clear up is there has not been a compromise that I pulled at the last moment. We had a number of discussions over the last three years and those were generally predicated on I can do this if you can do that, and I have some examples of that if we can put them up on an overhead. I just have the one copy -- one hard copy. Lastly, there's been talk about density in the neighborhood, adding density, is it going to come at Brackenridge, is it going to come at the state school, and ultimately I've heard some people say that it should come where it's appropriate. Exposition, which the 3215 exposition is located on with the 440 feet of frontage, carries about 14,000 cars a day. It's very clear in the land development code and in the traffic criteria manual that it is not appropriate for single-family. It's very clear in the market that single-family properties suffer about a 25 or 30% discount if they're located on exposition as opposed to back into the meat of the neighborhood. As you saw from the future land use maps, we're not talking about reaching into the neighborhood, changing any of the residential character. This is simply, I think, a good opportunity to develop within the city of Austin parameters a project that might serve as a decent example for other -- other efforts in the neighborhood. On the subject of density and values, this particular neighborhood has the second lowest residential density of all 50 to -- I think it's 56 or 60 neighborhoods within the city of Austin. It enjoys the second lowest net density and also has the highest land values. This -- allowing some appropriate density would help to lessen those disparities and provide for means for some of the older folks in the neighborhood to age in place. If there's any other questions or uncertainty -- or clarification I'd be happy to make those. Council member Shade. I'm really confused about the number of units that we're talking about for Congress agree to congregate living. How many units are we talking about under that category?

Congregate living isn't necessarily defined by units, number of units or number of beds, as traditional for sale or for lease residences are. So it's a little bit of an apples to oranges kind of comparison. The limits to congregate living developed within mf-1, which is the very first zoning class that would deal with, really deal with the building envelope and the overall floor area ratio. Generally that floor area ratio is somewhere around -- about 50%, similar to -- similar to condominiums, but it's measured a little bit differently. It's not measured in discrete units or bedrooms. It's --

Shade: okay. So he was just -- I'm not the expert here. Maybe one of the planners or somebody on the staff can help me, Greg, somebody. When I look up assisted living do my quick search here, I'm not following -- it talks about number of residents. How are we -- where does this fit into the zoning categories? I'm confused. And I'm sorry for my confusion. Congregate living is considered what we call a specific type of use. It's not multifamily, it's not commercial, and as Steve actually said, there's not a specific density limitation that's set for this type of use. The density limitations are set by heights and setbacks, impervious cover of whatever the base zoning district would be. If it was a commercial district, then you may have an FAR limitation or a floor to area ratio limitation, but this zoning district, mf-1, does not have an FAR limit with respect to this type of use or any use. So I can't tell you exactly how many units could go on there. It's really driven by the envelope of the building, the limitations of how tall it can be and how close you can be to the side yards and still achieve the number of parking spaces that are required space so it.

shade: in this kind of assisted living accommodation, are we talking about hospital-style rooms or are we talking about -- I mean, is this like a nursing home then? Is that --

it may come closer -- we do have something called convalescent services where people who need regular medical attention. Congregate living typically is not. It may be similar to like a dormitory, a facility, you might have kitchenettes within the facilities, or they might not, they might have a central kitchen area, but we see more of these in austin coming because there is a growing elder population, and the facilities, you'll see them in various districts, not just in multi-family, but you also find them in commercial districts.

If I may -- I'm sorry, may I address one last point? And that is, it is true that we have not had a particular pard design project. That's very nearly impossible to do when you don't have the zoning strictures defining what type of project you can do. It would be expensive and really unending if I were to design by committee everything that everybody wants that I've heard. Generally we would seek to live by the zoning strictures, the zoning parameters and then begin to design the project then.

Mayor leffingwell: okay. Thank you. I have one other question. I'm sorry. council member, go ahead. you referenced an overhead, which I don't know that we have, but was there something you wanted to share with us?

Well, I just have the letter from -- we were asked to go to mediation last time, and a letter from the mediator saying that it ended in an impasse. I also have my emails that say I would agree to these types of limitations, if you would support my zoning request, not, I'm just going to agree to them and keep going here. So I think there is a little bit of confusion about, hey, there was a compromise and the developer pulled it at the last minute and he can't be trusted. I've been very clear as to what I can agree to and we haven't had that ironclad agreement because I haven't gotten any support on any zoning class that would work.

Shade: thank you. next speaker.

Hi, I'm vivienne wilson. I'm sorry to be back up here but I had to rebut a couple of those points. We were emailed about assisted living. We went through the neighborhood planning process and at the beginning of that process, herndon made an offer that we would come back with the council supported compromise we had in april of 2008 and we would support that. And we didn't hear anything through the whole neighborhood planning process. We -- assisted living wasn't brought up during the neighborhood process and that's what this is about. For the neighbors that showed up to sanctuary church last fall were not asked about assisted living, they were not given the opportunity to ask about food service and laundry service and how these things might impact the neighborhood that down the hill, sound carry-over and light carry-over, definitely impacted by this thing. So none of those things have been vetted. Whether it's congregate care or assisted living, it's been outside the planning process where neighbors besides those that are here could weigh it and ask questions about it. And the compromise that the city -- the city council supported and mayor wynn made a motion for second and third reading the same night, I believe, please verify it, but the only reason it got kicked off of their reading was some confusion about the vegetative buffer. So we supported the compromise, which there was one house on the property, and we

agreed to 20 units, which as I said, was 280% increase. I have a document here that was given to us by burrlin at the beginning of asking us, and it asks us for 20 to 24 units. And since that time it's kind of been a moving target. We've moved away, so there was never any discussion -- never any agreement to come down from the 20 to 24 units toward the neighborhood position. We did all the moving. So I just wanted to make those points. Thank you.

Mayor leffingwell: okay. Anyone else to speak on 53, 54 or 55? To you wish to speak on -- herndon, would you address the civic issue?

I actually raised this issue myself about three weeks ago when I was trying to figure out what assisted living would fall under, and so I sent an email to paul and said, wouldn't this require civic flum and overlay -- I mean, and zoning, and I never heard a response back. This is the first kind of public discussion of it. We are very strongly opposed to civic even flum along that buffer line and the reason is that civic is everything from assisted living to a fire station to a school, all kinds of things, churches. If that whole band along exposition becomes zoned civic -- they have called it sisk -- I can't even read this. Oh, them. The entire state school has been called civic because that was what paul told us it was being used as in the meeting -- in the meetings, and we said, well, okay -- he said let's just call it that and move on. We said fine, it is used as a civic use right now but it's not being zoned or flumed that way. That's just the way the state is using it. But if it becomes public land and becomes part of the city, we don't want that band along the outside edges to be called civic. We want a lot of civic, a lot of mixed use, a lot of density, walkable cities, green, all inside the property, but the band next to the neighborhood, we don't want it to be civic, even in the flum. So I just wanted to pint pointthat out, that's never been discussed in any public meeting before this point. thank you. Council member morrison? guernsey, could I just ask you to follow up on that? It's my understanding that the use congregate living is a civic use but does that require a civic flum or a civic zoning? no, it does not. Right across the street there's a church, or I'd say a religious assembly use. That's a civic use. And we have lots of civic uses that are allowed throughout the city in residential and commercial districts. A day care, services use. You might find single-family or multi-family is also a civic use. Private elementary school is also a civic use. It's found in single-family and multi-family and commercial districts. So there's a large number of civic-type uses that are permitted by zonin in many, many districts that we have in our ordinance. let me do one follow-up question because the talk is about assisted living, which I think means senior living, living for seniors. Congregate living can be used for that. It includes personal care homes for the physically im mentally tarredded, developmentally -- retarded, doampletly disabled, or persons 60 years or old, child care homes, maternity care homes, and emergency shelters for victims of crime, abuse or neglect. Congregate living, if it were zoned mf-1, with congregate living being the only allowed, is there any use -- a assisted living facility is being discussed?

No, specifically, when we speak to a type of use, we don't necessarily get into the flavors, I guess, within that category. A property owner could certainly agree by private restrictive covenant to further limit that, but usually when we speak of, let's say general retail sales, convenience, next would be a sporting goods store, it could be a hallmark card shop. It could be maybe any number of type of retail uses, but we don't necessarily specify which ones is the one that would go in that -- okay, so if it were assisted living, just to summarize, something that would have to be a private restrictive covenant.

I would think it would have to be a private restrictive covenant, to further reduce it and distill it down -- because the zoning itself -- the use allowed itself -- allows all of those. Thank you.

Mayor Jefferingwell: okay. Anyone else wishing to speak on items 53, 54 or 55? Anyone else wishing to speak? Anyone else wishing to speak? That's three times. okay. Those are all the speakers that we have on these three items, and now we have the slightly unusual situation that we discussed earlier in which council member Spelman, council member Morrison and council member Riley are going to have to recuse themselves from any discussion of items concerning Brackenridge tract. So what I'd like to do, Guernsey, if possible, you can lead us through this motion sheet and pick out -- pick out the items that we need to address which strictly address the Brackenridge tract, and then we can go back and start at the beginning and treat the rest of the neighborhood plan. Can you do that?

Yes, sir. Mayor, Mayor pro tem, council members, again, I'm Paul DiGiuseppe with planning and development review, and we're going to 3, and the action is to approve the Brackenridge land use objectives and associated future land use map designation. 53 at issue is the future land use map and land use objectives 7 and 8 and associated recommendations, and I do need the powerpoint to help with the illustration of the -- with the motion sheet. Yes. And I'm going to need to forward this. The first -- the first recommendation is made by planning commission, and their recommendation is to approve the language currently in the plan, the planning commission didn't take action on the future land use map. If you see on the monitor, again, the language is regarding the preservation of Lyons way and the field lab, part of objective 7 and associated recommendations. Objective 8 is in the event that the -- that the Brackenridge track redevelops, it's to do so in harmony with the neighborhood transportation natural resources. As I mentioned earlier in my presentation, planning commission did not take an action on this item. The next recommendation comes from the neighborhood stakeholders, and the lion -- motion is to approve the language as recommended by the planning commission and the following land use categories. Recreation and open space, civic, single-family, multi-family, neighborhood commercial, commercial, neighborhood mixed use and mixed use. And I'd just like to call your attention to the map which they prepared, which illustrates the intent of this, and it was primarily to capture the future land use categories that best matched with the development agreement of 1989. However, as you'll see as you know that the -- the golf course in a way are not part of that agreement but they are part of the lease with the city and in addition, there's -- you'll see that there's a proposal on the future land use map to extend the trail at Lady Bird Lake through the property up to Red Bud, which wasn't directly covered by the development agreement. And the university has communicated to us that their recommendation is the same as staff's recommendation, and staff's recommendation is different in that we have a proposal for just one objective and one recommendation, which is to continue working with all the stakeholders in the planning area regarding the future of the tract, and as I had mentioned in my earlier presentation, that we recommend excluding it from the future land use map. Does anyone have any questions? I guess just reading from the motion sheet, explain to me on the staff recommendation -- go over the staff recommendation one more time and tell me what it means, recommend more general language focusing on et cetera.

Certainly. It's better explained if you were looking at the screen. I tried to not take it verbatim from what's in the -- in your backup, but again, the purpose was to -- of the objective is for the city to agree to work --

continue to work cooperatively with the stakeholders toward the future of the brackenridge tract. thank you. Questions, council? Council member cole? I first of all want to thank the neighbors for all the work that you've been doing in this process for such a long period of time, and I know that I have had many, many discussions with many of the council members. And one thing that has stuck out in my mind watching this process for a long time on council is that we really have not taken a comprehensive approach in our dealings with the university, and we really respect the fact that you-all have engaged so many stakeholders and done that. But that being said, and looking at all the objectives associated with the land use maps, I am going to support the staff recommendation, which basically excludes the area from the flum, and that's the motion, mayor. motion by council member cole for the staff recommendation. Is there a second?

Second. second by the mayor pro tem. I will just say that i intend to support the motion as well, and with regard to continuing to work with the stakeholders and the property owners and so forth, my goal, as a city council member, as mayor, is going to be to work to preserve the historic and residential character of the neighborhood consistent and capacity I believe with surrounding development and with buffering for different uses, diverse uses, with an emphasis on environmental protection and sustainability standards. That's just a comment which will be in the minutes, and I intend to support the motion. Council member shade? I support exactly what you've just said.

okay, now we're going back to motion number 1 and the action is approval the combined neighborhood plan. This is agenda number 53. And on first reading only, approve the central west austin combined neighborhood plan as recommended by the planning commission except for the following actions that will be taken by separate votes shown below. The austin state school. You have already voted on the brackenridge tract. Bicycle lanes for windsor road.

Mayor Leffingwell: Excuse me. Are there any more items related to the brackenridge tract?

No, mayor.

Mayor Leffingwell: Why don't we pause and allow the other councilmembers to come back to the dais.

Do we really have to do that, mayor? At least let them know they can come back. You are going to give them the signal.

Did you say they were watching gray's anatomy?

Mayor Leffingwell: So they will be on their way out shortly so you can continue.

I'll just repeat the reading.

Mayor Leffingwell: Okay. Have they been advised? Go ahead. They will get out here as soon as their little legs will carry them.

Again, we are now back on motion number 1, which is agenda number 53. Your action is to approve the central west austin combined neighborhood plan on first reading only, approve the central west austin combined neighborhood plan as recommended by the planning commission except for the following action that will be taken by separate votes shown below. The austin state school. You've already taken action on the brackenridge tract. The next item is bicycle lanes for windsor road. Future land use map designations for the following addresses that do not have associated rezoning, 1014 west 31st street, 2527, 2531, 2600, and 2601 exposition boulevard. 2414 And 2417 exposition boulevard, 1505 for rest trail, 1206 nor walk lane, 2508 and 2514 west 12th street, 2506-2511 quarry road. And the future land use map designations for the following addresses, 1717, 1721, 1801, 1803 and 1805 west 35th street and 3215 exposition boulevard. These items, the land use and zoning designations for zoning tracts and plan text changes will be discussed as separate motions. Does anyone have any questions?

Mayor Leffingwell: Questions for staff? Okay. Anyone care to make a motion? Councilmember morrison.

Morrison: Just to catch up with things, we are at the point of adopting all the noncontroversial --

Mayor Leffingwell: Yes.

Morrison: I would like to make that motion.

Mayor Leffingwell: Motion number 1.

Morrison: I'll move number 1.

Mayor Leffingwell: Councilmember morrison moves to close the public hearing and seconded by councilmember shade and to adopt on first reading only motion number 1, which is to approve the central west austin combined neighborhood plan as recommended by the planning commission except for the tracts noted. Okay?

Motion number 2, which is agenda number -- also agenda number 53, is the action is to approve the wording in the plan for the austin state school, and at issue here is the land use recommendation for 6.2. kanady's presentation to council, earlier he alluded to this. And the purpose of the language is dealing with a potential situation should the austin state school be redeveloped, there is this language -- this language is addressing whether or not that language -- whether or not the type of development that's adjacent to the existing neighborhood should be specifically identified by planning commission whether that should stay harmonious residential development near the existing residential areas or the neighborhood stakeholder recommendation which is to say that the redevelopment would result in harmonious single-family redevelopment adjacent to existing residential areas. So the difference between the two -- between the planning commission's suggested language and the neighborhood's is the planning commission is a bit more general, just calling it residential. The neighborhood is wanting more specific language for single-family. Staff's recommendation is recommended is proposed by planning commission.

Mayor Leffingwell: Okay. First let's go back and take the vote on motion number 1, which was made and seconded.

I'm sorry.

Mayor Leffingwell: My fault. All in favor say aye. Any opposed say no. Passes on a vote of 7-0. Now we'll take up motion number 2.

I apologize.

Mayor?

Mayor Leffingwell: Councilmember cole.

Cole: I believe that the planning commission recommendation language encompasses what the neighborhood stakeholder recommendation encompasses so I think it would be prudent that we adopt the broader definition. So I move approval of the planning commission recommendation.

Mayor Leffingwell: Councilmember cole moves to close the public hearing and approve the planning commission recommendation for motion number 2 on first reading only. Is there a second? Seconded by councilmember spelman. Any discussion?

Spelman: Quickly, mayor, I don't believe we need to close the public hearing because I think we just did it.

Mayor Leffingwell: Pardon?

Spelman: I believe we closed the public hearing on our first motion so I don't think we need to continue closing the public hearing over and over again.

Mayor Leffingwell: Is that correct, mr. guernsey?

Mayor, since you took action on 53, I would agree that I think you've closed the public hearing.

Mayor Leffingwell: On all --

and that would affect all of 53. When we go through the motion sheet you will get to item 54 and then you will have to close that public hearing.

Mayor Leffingwell: So there's nothing wrong with a little redundancy, the public hearing is closed on this item and the vote is 7-0 in favor of motion number 2. All in favor say aye. The vote is 7-0 in favor of motion number 2.

The next item is motion number 4, which is agenda number 53. And your action is to approve the map and table for bicycle lanes in the windsor road planning area. And the issue is the bike lane recommendations in the windsor road planning area is shown on your map on page 63 and table t-1. And the map that I'm referring to is shown on your monitor. The planning commission recommendation is to recommend as proposed in the draft plan the neighborhood stakeholder recommendation, there wasn't strict consensus on the issue of bike lanes. The bike lane requests did come up through the planning process, but toward the end of the process we heard from a number of people in the pemberton heights neighborhood who were opposed to the inclusion of bike lanes in their neighborhood. Staff's recommendation is to recommend as proposed in the draft plan. Just one bit of information i want to pass along to you is when these concerns were raised by the residents, i contacted anit and the neighborhood division and we worked to make modifications to the initial recommendations. bodet works on the bike master plan and a couple of recommendations for harris boulevard and -- I'm sorry, right now I can't remember the --

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And gadsden are currently list understand the bike master plan as having a bike lane. However, miss bodet has situated when they update the bike master plan later this year that they will agree to use this as -- revise to a wide curb lane. So many of the concerns were regarding harris and gadsden. So another one, though, that was of concern was north wood and primarily the concern there is what would happen to on-street parking. Because when a bike lane now gets placed, on-street parking is prohibited. bodet stated they would agree to reevaluate north wood during the bicycle master plan, update to focus on the on-street parking needs, and as a result of that, I've also added language to the plan that said that the city would do that. There were other concerns, they were general concerns that -- that we had received that people did not want bike lanes in general, and most of these recommendations are in the bike master plan. So if there are to be additional changes they really need to go through that bike master plan update process. And, of course, when the city does look at developing bike lanes, they work closely with the neighborhoods to assure that their issues are being addressed and they do look at, you know, whether or not they will analyze whether or not the bike lane requests are more important or not than the on-street parking. Does council have any questions?

Mayor Leffingwell: Questions or motion? On number 4. Councilmember riley.

Riley: Just a question. I can't really see on the display there. Currently on the bike map there's a blue segment on winds door between pecos and exhibition. Does this plan include the bike lane in that segment?

The map that you see here represents the recommendations that were in the bike -- that are in the bike master plan, and there are a couple of recommendations that did not make it into the bike master plan that are -- but that are on here. So the windsor road bike lane is actually in the 2009 bike master plan.

Riley: All right. Mayor, I'll move approval on this one. Move approval as recommended by the planning commission.

Mayor Leffingwell: Councilmember riley moves to approve motion number 4, planning commission recommendation on first reading only. Second? Is there a second? Seconded by councilmember spelman. All in favor say aye. Any opposed say no. Passes on a vote of 7-0.

The next series of items, 5 through 11, all relate to strictly contested future land use map designations. So your action is to approve future land use map designations but with no associated rezonings. So motion number 5, also on agenda number 53, is located at 1014 west 31st street, and this is in the west 31st street neighborhood just approximate to north lamar boulevard. It's currently a duplex and it's zoned sf-3. The planning commission land use recommendation is multi-family. The neighborhood stakeholder land use recommendation is single-family. The property owner -- we did not hear from the property owner and staff's land use recommendation is for multi-family. Does council have any questions?

Mayor Leffingwell: Councilmember morrison.

Morrison: Just to orient myself, is that the big yellow -- to the west of there, is that st. andrew's?

Yes.

Morrison: So mayor, I'd like to move the neighborhood stakeholder land use recommendation which is single-family because it's really right across from single-family and there is no property owner recommendation.

Mayor Leffingwell: So on motion number 5, you're making a motion to approve the neighborhood recommendation of single-family on first reading. Seconded by the mayor pro tem. Any discussion? Councilmember spelman.

Spelman: What's the nature of this duplex? Is it a side by side or is it a house with a garage apartment or what?

My recollection is they are attached units. I don't recall the configuration with the garage.

Spelman: If they are side by side units, both of them with doors out on to the street?

Correct.

Spelman: Our usual procedure would be to make a flum category that would match that usual type of use would be multi-family; am I right?

In this case it's still considered a single-family use.

Spelman: Okay. Okay. Thank you.

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

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0.

Motion number 6, item number 53, this is a property located at 2727 exposition boulevard. It's the shopping village. It's currently zoned commercial services or cs. The planning commission land use recommendation is neighborhood commercial. The neighborhood stakeholder land use recommendation is neighborhood commercial. The property owner is recommending commercial, and staff is recommending neighborhood commercial. One point that I want to bring up is that this property is within the drinking water protection zone so the regulations for any redevelopment would apply. Does council have any questions?

Mayor Leffingwell: Questions or a motion?

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Second.

Mayor Leffingwell: Councilmember spelman moves planning commission recommendation on first reading. Seconded by councilmember cole. Further discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0.

Item -- motion number 7, agenda number 53, are two properties located at 2527, 2531, 2600 and 2601 exposition boulevard. There are two churches. The sanctuary baptist church and the tarrytown united methodist church. They are both currently zoned sf-3. Planning commission is recommending single-family. The neighborhood is recommending single-family. The property owners for both of these properties would like civic, and staff is recommending for single-family. In this case, it is -- it is okay to designate church in either civic or single-family. Staff's primary reason for single-family -- one of the reasons for recommending single-family is there are three other churches in the planning area that are all zoned single-family 3, and those are currently in the plan as single-family on the future land use maps. So our position is it would be consistent with those other churches.

Mayor Leffingwell: Motion on number 7. Councilmember morrison moves planning commission recommendation on first reading. Seconded by councilmember spelman. Discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0.

And as we continue moving south on exposition, we are now on motion number 8, agenda number 53, and the address is 2414 and 2417 exposition boulevard. This is the tarrytown shopping center. Its current

zone is logrcs and cs-1. The planning commission recommendation was neighborhood mixed use. The neighborhood stakeholder land use recommendation, which was explained earlier, I have it on the motion sheet that there is no consensus between neighborhood commercial and neighborhood mixed use. As part of our process when we had our land use meeting a couple years ago, the result during the land use meeting was neighborhood mixed use. However, when we followed up with a zoning meeting, the result was people did not want to see changes to it and there were requests at that time for neighborhood commercial. And very recently the west austin neighborhood group has submitted its recommendation for neighborhood commercial. The property owner has indicated they would prefer neighborhood mixed use. They did state to me that they do not have any plans to add residential use. The neighborhood mixed use, as I mentioned, came out of the initial land use meeting. Their reason for supporting this is to give some flexibility to some future owner. And staff is recommending neighborhood mixed use. And our primary reason for recommending neighborhood mixed use is that's what came out of the initial land use meeting. Does council have any questions?

Mayor Leffingwell: Motion on number? Councilmember riley.

Riley: The planning commission recommendation.

Mayor Leffingwell: Planning commission recommendation on first reading. Seconded by councilmember spelman. Discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0.

Okay, the next three items, 9, 10 and 11, are grouped -- essentially we can group them together. This is -- these are land use issues regarding a mixture of single-family and multi-family structures and zoning. These are all within around the deep eddy area along endfield road and toward exposition. And as you look -- if you look on the monitor, you will see the highlighted properties. The one on the right is obviously not contiguous, and that's motion number 9. And the -- this property is -- this is agenda number 53. This property is located at 1505 forest trail. It's single-family currently and there's multi-family 3 zoning. The planning commission recommended single-family on the future land use map and the neighborhood recommended single-family. We did not hear from the property owner. And staff's recommendation is for multi-family. Does council have any questions?

Mayor Leffingwell: On all the recommendations are the same except looks like for number 11.

Yes. Correct.

Mayor Leffingwell: So --

well, the planning -- planning commission did differ on 9 from 10 and 11. 10 And 11, planning commission recommended for multi-family. The neighborhood is consistently recommending single-family for these three. And staff is recommending multi-family for these three.

Mayor Leffingwell: Okay. If it works out, we can take 9, 10 and 11 together.

Certainly.

Mayor Leffingwell: If you don't want to do that, you can do something else.

Spelman: A question first.

Mayor Leffingwell: Councilmember spelman.

Spelman: Everybody is recommending single-family but you. So why are you on recommending multi?

For one, it is zoned multi-family and if you look on this map actually those properties to the east of forest are all zoned multi-family. The reason we're suggesting that this property be multi-family is we felt that this would create a very hard edge, a definitive line separating multi-family from single-family.

Spelman: What is the use of the adjacent properties, the ones not outlined in red on the east side of forest?

To the north of this property is a single-family unit. Everything in yellow is single-family.

Spelman: Single-family use.

Correct, but the zoning is multi-family. And everything in orange is a multi-family use. So another reason we thought that this would be appropriate is when you look at this area, predominantly multi-family because it's so close to endfield road. But the neighborhood felt this should be the location where single-family starts, not one block -- one unit north of there.

Spelman: Mayor, move planning commission recommendation on 9 and that we split 9, 10 and 11.

Mayor Leffingwell: So your mot planning commission recommendation on 9. So the motion is only on item 9. Planning commission recommendation, first reading. Second is councilmember cole. Any discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Opposed? Passes on a vote 7-0. Now we'll take up 10. We've already been briefed on it so we're ready for a motion.

Spelman: Move planning commission recommendation on 10 and 11.

Second.

Mayor Leffingwell: Planning commission recommendation on first reading for items 10 and 11. Motion by councilmember spelman. Seconded by councilmember cole. Councilmember morrison.

Morrison: This is one I'm not going to be able to support because I am concerned about 10 clearly it's moving multi-family into the very step for the residential so I won't be able to support the motion.

Mayor Leffingwell: Okay. Any further discussion? All in favor say aye.

Aye.

Mayor Leffingwell: All opposed say no.

No.

Mayor Leffingwell: Passes on a vote of 5-2 with councilmember morrison and yours truly voting no. Number 12.

I'm sorry, that vote was for both 10 and 11?

Mayor Leffingwell: That was for 10 and 11.

Okay. Thank you. Number -- the next two items, 12 and 13, your action is to approve the future land use map designations and rezonings. So both of these properties you have to decide on the future land use map and the zoning category. The first one is motion number 12, and this is now agendas 53 and 54.

Mayor, I believe you -- you were instructed at this point to -- you were going to close the public meeting. Do you want me to read through it first?

Mayor Leffingwell: Yeah, go ahead. And 13 is -- or item number 55 also.

Yes. So motion number 12, this is tract number 1, and this is -- these are five properties located at 1717, 1721, 1801, 1803 and 1805 west 35th street. The current uses are residential and office. Its current zone is the I.O. The planning commission land use recommendation is neighborhood commercial. Its zoning recommendation is I.O.-n.p. The neighborhood stakeholder land use is neighborhood commercial and the zoning recommendation is lo-np. All five -- I'm sorry, there were four property owners of these five properties. Their land use recommendation is neighborhood mixed use and the zoning recommendation is lo-mu-np. Staff land use recommendation is neighborhood mixed use and the zoning recommendation is lo-mu-np. There is a valid petition. There are five separate petitions and they are all valid for all five of these properties. I would like to show you if this is helpful, this is an aerial showing the properties. belaka had better photographs than what I have here. But this also shows the current properties. And then this -- this slide shows some of the adjacent properties. The image on the left is the belaka was referring to and then across the street is some small-scale commercial uses. And I do want to point out I don't have an image of it here. belaka did, but on the right -- or to the northeast of this property is the jefferson

commons development, which we did hear throughout the planning process that people were concerned they didn't want to see something like that happen on this side of 35th street.

Mayor Leffingwell: And the valid petition is against what?

Oh, thank you. The valid petition was issued is against rezoni lo-mu. It was initiated by the neighborhood.

Mayor Leffingwell: So no valid petition against lo-np.

Yes.

Mayor Leffingwell: Say again?

Yes, mayor. The valid petition is not against the lo-np. Once the np is added it's already zoned lo.

Mayor Leffingwell: Motion on number 12. Councilmember morrison.

Morrison: It's important to note that the -- it's the staff that's recommending mixed use and planning commission and stakeholders are for neighborhood commercial and lo-np. It reminds me of something we did recently and looking at vmu and we decided to opt them out for very similar reasons people are raising today. My motion is to close the public hearing on 54 and adopt planning commission recommendation.

Cole: Second.

Mayor Leffingwell: Councilmember morrison moves planning commission recommendation, first reading. Closes the public hearing on item 54. Seconded by councilmember cole. Councilmember riley.

Riley: Mayor, I'm going to support the motion for the belaka and mr. curry. I would note, though, that we have some work to do on our commercial design standards and in particular on the neighborhood side of our commercial design standards, and in the future my hope would be that if we -- if we made enough progress on those things, that a neighborhood might actually feel comfortable with the zoning that staff would be recommending because they would be confident about getting a project that would not be a burden on their property. Ultimately we ought to have design standards that guard against the kind of problems that we've seen and that we saw on some of the slides but I recommend we're not there yet so I'm going to support the motion.

Mayor Leffingwell: Duly noted. Further discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0.

Motion number 13 is agenda number 53 and 55. And this is tract number 101. It's at 3215 exposition boulevard. The property is currently vacant. It is mostly unzoned with a small sliver of the northern end of it is zoned sf-3. Planning commission did not have a land use or zoning recommendation. They did -- they took a number of motions but they were never able to come to an agreement. The neighborhood stakeholder land use recommendation and zoning recommendation, as you heard from a number of speakers earlier, many of the people are -- are recommending single-family and sf-3 zoning. During our meetings, we didn't achieve that 90% consensus; however, more people in the room were supporting the single-family and sf-3, and as you all know, there was three years ago a very large petition that had been signed by people in the neighborhood. There were people who attended our meetings and were supportive of multi-family and mf-1. The property owner is recommending multi-family on the future land use map and mf-1 for -- mf-1 perform. The zoning recommendation is ff-6 np and there is no valid petition on motion 13. Does council have any questions? Let me just show the photographs. Directly across the street is westminster presbyterian church and then there is single-family and it was described by miss kyle very well which is across the street from the site. Does council have questions?

Mayor Leffingwell: Discussion? Councilmember spelman.

Spelman: Planning commission had no recommendation. There was no clear consensus among the stakeholders, although more of them appeared to have supported, as you said, single-family as opposed to anything else. The owner wants multi-family and you're arguing for high density single-family. This is about as clear a discensus as I think we've ever seen. What would be the practical effect from your point of view of our taking no action?

Taking no action and essentially would this be withdrawing this from the neighborhood --

Spelman: I'm looking for the instrument here. While I was off the dais, recusing myself, you pulled the brack tract out of this plan. And I think an argument could be made for doing the same thing with this small sliver of land here. It's clear that nobody is quite clear what to do about it. The owner doesn't have a clear proposal. I know there have been a lot of discussions about what could be done with this, but he hasn't got a buyer or developer on hand ready to go. There are no elevations to be shopped around, nobody is quite clear what this going to look like. And just in discuss ing this with other -- my colleagues on the dais, we couldn't resist the temptation to tinker. And rather than tinker with something which doesn't really exist yet, perhaps it would make more sense for us to back out of the whole thing and wait for the property owner to make us all a proposal so we would all have something very specific and actionable to deal with.

Mayor Leffingwell: Just since you were on the dais, the actual motion was to have no flum designation.

Spelman: That's consistent with what I was trying to get at.

Mayor and council, staff would suggest you consider zoning of this property. Currently it's even zoned. It was originally a part of the same parcel and technically we would not issue a building permit for construction on the unzoned portion of this property. But if you elect not to take action on the flum, that's

of your own doing by your choice. Staff would certainly strongly recommend some zoning on the remainder of this tract that is unzoned currently at this time. some right to the property owner for some type of .

Spelman: The practical effect of keeping this unzoned is to prevent the property owner from being able to do anything with that site until he or she puts forward a zoning case.

That's correct.

Spelman: If we were to zone this a particular zone, pick one, and that wasn't exactly what was going to meet the needs of the owner and he had something else in mind, then he would still have to go off and do his own case anyway.

That's correct.

Spelman: Okay. So he's not losing anything by having this zoned something rather than nothing.

I believe that's correct.

Spelman: And he's gaining something if he can find a buyer or find some way of having -- of creating a viable development that actually fits the zoning restrictions that we would offer here.

He would have some development right to do something.

Spelman: Okay. With that in mind, mayor, i move the staff recommendation of sf-6.

Mayor Leffingwell: Motion by councilmember spelman to move the staff recommendation of sf-6. And is that also high density single-family on the flum?

Spelman: My apologies, mayor, my intention.

Mayor Leffingwell: And also close the public hearing on item 55.

Spelman: On first reading only.

Mayor Leffingwell: First reading only. Is there a second for that motion? Was that seconded by councilmember riley? Discussion? Councilmember morrison.

Morrison: I'd like to offer an amendment to that and if it's not acceptable I'll make a substitute motion, but what I would like to do is to -- because they have already been through the whole dividing the baby between 13 and 27, I'm very uncomfortable just moving towards 27 after folks have spent nine months of their life negotiating. So I think my amendment is to limit it to 20 units maximum. And to also add the additional conditions that had been added during the compromise -- a few of the conditions, not all of them, in terms of the height limitations of 32 feet -- 75 feet from the property line along exposition, two

stories and 32 feet. Side wall articulation along the western face. No fence along exposition. And a 25-foot vegetative buffer from the sidewalk and presumably if the property owner has a real project that he can bring to the neighbors to work on that needs different zoning, then they can work from there. So that would be my amendment. Is it friendly?

Mayor Leffingwell: For the maker.

Spelman: Although I believe the maker is offering it in a very friendly fashion I am amenable to many of the things here. I think we'll need to take a separate vote on the amendment.

Morrison: Okay. In that case I would like to make a substitute motion. To that effect.

Mayor Leffingwell: Substitute motion. Does everyone understand the substitute motion? It's the same as the main motion except with additional conditions, a maximum of 20 units and other conditions which can be furnished in writing. That is the substitute motion. Is there a second for the substitute? Seconded by councilmember shade.

Shade: I do have a question though. Since I'm not familiar with the various conditions, would you be amenable to just talking about the number of units at this point and not all the conditions? We could look at those between now and second and third reading.

Morrison: That would be fine.

Shade: So that would be a friendly -- okay. We would change the substitute motion to be sf-6 with a unit limitation of 20 units, but without the other stuff I haven't seen yet.

Morrison: Right, with the intention to talk about those and talk with the neighbors.

Shade: Okay.

Mayor Leffingwell: Okay, so amended substitute motion and we will vote on substitute motion first, but in the meantime you are welcome to discuss both the substitute and the main motion. Is there any discussion? Councilmember spelman and then councilmember cole.

Spelman: I was concerned that we would start nickel and diming and it sound like we're on the edge of doing that if not -- verge of doing that if not tonight in two weeks. I don't know enough to know whether we should have a 32-height limitation, maximum of two stories. I know enough about walls being four feet tall. We haven't had a chance to engage on that issue yet. I know the neighborhood has been engaged in this issue on and off for two or three years. I know that the owner has been engaged in this issue for the same period of time. But I haven't. I don't believe I would be able to make a fine grade choice --

Spelman: I understand that, but we're talking about bringing it back in a couple weeks. I also don't believe I know enough about the distinction between 20 units and whatever number of units the owner would be able to build on sf-6 zone to go make a decision at this time. I'm more comfortable flat zoning of sf-6 so

I'm going to vote against the substitute motion although I understand why it's being offered and could be the right thing to do for the neighborhood and the owner, but I don't know enough about it to support it at this time.

Mayor Leffingwell: Councilmember cole.

Cole: I simply want to say that I know that the neighborhoods have went through a long process of trying to come to consensus with the owner, but I am familiar with this property and recognize the fact that it is on an arterial road and that we are promoting density. And as much as some of us are grappling with growth, we are still going to have to have it. And we're still going to have to have it in particular for our elderly population. So I will not be supporting the substitute motion and i believe that that type of housing has to be accommodated throughout our entire city, and I appreciate the fact that the owners have tried to make that as compatible with the neighborhood as possible. And I also appreciate the fact that in many other areas of the country people want to actually retire in the areas that they have had their single-family grow up and where they go to church. And that we are just now beginning to embark on a scenario where we make that possible. And I think that this is a neighborhood well suited for that. I will not be supporting the motion.

Mayor Leffingwell: You will not support --

Cole: The substitute motion.

Mayor Leffingwell: Substitute. Mayor pro tem.

Martinez:, THANKS, MAYOR. I agree with councilmember sell man. I was concerned where this was going to lead and folks have participated in conversations for a long time. I wanted to ask the city attorney a question because we have a substitute motion pending. Can I offer a substitute to the substitute now?

Mayor Leffingwell: No.

Martinez: I wasn't asking you, mayor. come on, chad, you're on the spot. I'll explain why if I can.

Might need to consult my robert's rules on this.

Mayor Leffingwell: Guys, I think there's enough uncertainty where we probably need to consult the rules on that.

Martinez: I won't be supporting the substitute motion but I was going to take a stab at another attempt to, I guess, for some bring some close tour this and move on. -- Closure to this and move on. I don't want to elaborate, but what we're trying to do on the dais, we have no idea what's coming down the road. And so as we did in motion 12, we left it completely out waiting for a project to come forward so that the neighbors have complete control in terms of the ability to negotiate, and this property owner knows exactly where the neighbors lie. They know exactly where we lie as a council and what we're not going to

allow. So I was going to move we just leave it out of the flum altogether until the project gets ready. And then we sit down and hash it out and figure it out. We're sitting here talking about setbacks and number of units and wall heights and we don't even know what's going to be built here. We're building it for them and I don't know that we should be doing this.

Mayor Leffingwell: Councilmember shade.

Shade: Just to clarify, i think that's where, if i understood correctly, without zoning it, you're actually not -- isn't this -- this is what originally councilmember spelman was asking about. So if it's taken out, he still -- the owner would still have to have a zoning case to trigger anything. So I don't see the advantage of not giving it some sort of zoning. But anyway. Am I missing something? Okay.

Cole: So just a point of clarification.

Mayor Leffingwell: Councilmember cole.

Cole: Mayor pro tem is not making a motion now.

Mayor Leffingwell: We're holding --

Cole: I think chad said no.

Well --

Cole: Okay. Okay.

Mayor Leffingwell: I think this is an important question that we need to answer and, you know, I'll stand corrected if I'm wrong, but I don't think you can have two substitute motions.

Spelman: Mayor, if it would -- mayor, perhaps i could short circuit this. If I withdraw my original motion, then we'll only have one motion on the table and then councilmember martinez could be offering a substitute to the lone motion left on the table. Would that be permissible?

Mayor Leffingwell: Okay, I think we can work with that. Without objection, the main motion is withdrawn. Any objection from the second? Who was the second?

Cole: I'll second that motion.

Mayor Leffingwell: So the substitute motion is now the main motion, which is councilmember morrison's motion for high density single-family sf-6 with limitation of 20 units. And now there is room for a substitute motion.

Martinez: I'll move we leave it out of the flum just like the brackenridge tract. When a project comes forward, we'll go through this again but there has been substantial amount of work already done. So the

starting point isn't this gaping wide hole. The community has made it very clear what they want and don't want and I think this council has made it somewhat clear what we're willing to contemplate as well.

Spelman: Second.

Mayor Leffingwell: So the motion -- substitute motion by mayor pro tem. Is there a second?

Second.

Mayor Leffingwell: Can't be second on both of them. Seconded by councilmember spelman. To have no flum designation and no zoning category.

Mayor?

Mayor Leffingwell: Councilmember morrison.

Morrison: Question for staff and I don't know if this is for greg or the attorney. What happens then if tomorrow the owner shows up with at the one-stop shop with an application for a building permit?

I could not accept the permit application for construction because right now there's no zoning on the property.

I think that's a significant point. He can't do anything. He can't pull a permit to do anything.

Morrison: Well, is that a problem?

I defer that to the law department.

Morrison: Whew does that mean if somebody can't do anything with their property?

I think it goes without saying that is problematic and we would not like to find ourselves in that position if possible.

Morrison: We would not like the find ourselves in that position.

Mayor, I have --

Mayor Leffingwell: Councilmember riley.

Riley: I believe in this case the applicant has suggested in absence of -- i think it's at the request of the applicant. I don't see this as any kind of a taking given this is at the applicant's request.

Mayor Leffingwell: Mr. guernsey.

I would feel much more comfortable if the property owner would speak to the record. If that is the owner's intent to leave the property in a state of unzoned for a period of time.

Mayor Leffingwell: I agree. The property owner or a representative come forward and address that question.

It's perfectly okay with us to leave it unzoned until we can come back. It's been unzoned for the last three years.

Mayor Leffingwell: You are on the record, ms. glasco.

Yes, and the owner concurs.

Mayor Leffingwell: All right. Anything further?

Yes.

Mayor Leffingwell: Councilmember morrison.

Morrison: Are there interim zonings that can be done, mr. guernsey?

Interim zoning I think usually is applied to property when it comes into the city's limits. This actually is in our city limits and I'd have to go back, have a broader conversation with the law department, but it was not uncommon back in 1931 to leave state property just unzoned. It's always been within our jurisdiction and I would probably have to have a dialogue with the law department to find out how we would deal with a tract that's never been originally zoned. Right now this property, since it would be receiving its initial zoning, would not necessarily be subject to a petition right, but I'm not sure if we could apply I want interim zoning.

Morrison: I'm not going to be supporting this motion. I think the neighbors have been at it for years and it's reasonable we could take a step toward something that is workable for the neighbors.

Mayor Leffingwell: Councilmember shade.

Shade: I'm leaning in that direction. I'd like to ask my colleague, councilmember spelman, to go back through the analysis that you did when we first started this conversation about the impact of no zoning or having a zoning category. Because I think I'm missing something.

Spelman: Let me --

Mayor Leffingwell: Councilmember spelman.

Spelman: Instead of reiterating, let me tell you what's happened in my mind since we started this conversation.

Shade: That's what I'm looking for.

Mayor Leffingwell: Not sure we want to know, but go ahead.

Spelman: I don't have to tell you. We don't have enough information to know where that ought to be. And my stab at sf-6 where it looked like the center of gravity from all the recommendations from the staff and planning commission and stakeholders looked someplace in the middle. We're probably not good to have an opportunity to adjust downward. If we shoot too high, we're giving the owner entitlement to build whatever he wants to build. This is one way of not taking a stand at all and where the center of gravity is going to be. Therefore we're not shooting too high, we're not shooting too low, we're just not doing anything at all. We're saying, owner, figure out what you want to build, come back to us and then we can take about it. I think this is the safest route and this is what I was supporting in the first place. I let greg talk me out of it but I appreciate the mayor pro tem letting me reconsider that.

Mayor Leffingwell: I kind of agree with that. Ordinarily the use, specific end use and conditions shouldn't be part of the zoning case, it should be separate from the zoning case. But this is a unique situation here and I think -- what I've heard tonight from a lot of the speakers and from councilmembers is we are interested in specifically what development is going to go there. So I'm going to go ahead and support the substitute motion until such time as more specificity comes back with the zoning application. Then we can, I think, consider it in a better way. So that's what I'm going to do. Anything further? So we'll be voting on the substitute motion, which is to have no flum recommendation and no zoning. And I suppose -- I guess we leave the public hearing the way it is on 53 and 55. We may close out a later item. All in favor of the substitute motion say aye.

Aye.

Mayor Leffingwell: Opposed say no.

No.

Mayor Leffingwell: No and -- okay, that passes on a vote of 5-2 with councilmember shade and councilmember morrison voting no.

We are on to motion number 14 and now that actually concludes any of your actions regarding the neighborhood plan. And from here on we're going to focus specifically on zoning. And the first area that we're going to focus on is the windsor road npcd. Trying to get the presentation moving here. So the first motion -- the motion 14, this is on agenda number 54, on first reading, recommend approval of the rezoning as recommended by planning commission except for the following actions that will be taken by separate votes shown below. Small lot amnesty, garage placement and impervious cover and parking placement restrictions and tract 2. These zoning -- the zoning designations for the contested cases will be discussed as separate motions. Essentially these are the uncontested parts such as PLACING NPs WITHIN THE Windsor planning area. Does council have any questions?

Mayor Leffingwell: Questions from council? Okay. Is there a motion on item number 14?

Move approval.

Second.

Mayor Leffingwell: Councilmember spelman moves approval on item 14 on first reading only. Close the public hearing on item 54. A second was by councilmember cole. Is there any further discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 5-0 with mayor pro tem martinez, councilmember shade off the dais.

Motion number 15, which is also agenda number 54, your action is to approve the special use infill option for the windsor road neighborhood plan combining district. The infill option that discussing is small lot amnesty. The area proposed is area wide. The planning commission recommendation recommend for small lot amnesty. The neighborhood stakeholder recommendation, there was no consensus. But when we had our meeting to discuss this, there was -- there was consensus opposing the infill option. But as we were going through the planning commission process, the west austin neighborhood group did -- did recommend or stated that they would not oppose small lot amnesty in the -- I'm sorry, i believe the neighborhood association stated they would not oppose the small lot amnesty. And then staff recommendation is recommend for small lot amnesty. This map in front of you shows the properties that could potentially be affected by small lot amnesty. So these are lots between 2500 and 5750 square feet. Does council have any questions?

Mayor Leffingwell: Questions or a motion?

Move approval of the planning commission.

Mayor Leffingwell: Councilmember morrison moves approval of the planning commission recommendation on first reading. Is there a second? Seconded by councilmember spelman. Discussion? Fall in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 5-0. Mayor pro tem and councilmember shade off the dais.

The next items, 16 and 17, deal with neighborhood plan design tools within the windsor road neighborhood plan combining district. If you would like, this is one you could combine for your action. Motion number 16, agenda number 54, is the garage placement tool. The neighborhood stakeholder recommendation, this is true for both 16 and 17. There was no overwhelming consensus. When we had

our meetings, there was a small turnout at that meeting and more people supported the design tools; however, subsequently there have been people who were raising opposition to both garage placement and impervious cover for both. So -- but planning commission recommended for garage placement. Staff is also recommending for garage placement.

Mayor Leffingwell: Questions? Motion on 16 and 17 together. Councilmember morrison moves approval. On first reading. Is there a second by councilmember spelman. Further discussion? All those in favor please say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 5-0 with mayor pro tem and councilmember shade off the dais.

So we are now on motion number 18 and your action is to approve the rezoning in the windsor road neighborhood combining district. This is just rezoning. There is no land use determination. This is agenda number 54. The tract is number 2. And it is located at 3402 kerbey lane. The current use is an office. The current zoning is sf-3. The planning commission recommendation -- zoning recommendation is no-np. The neighborhood stakeholder recommendation, there was no consensus between sf-3 and no-np. The property owner is asking for no-np and staff the recommending no-np. There is not a valid petition.

Mayor Leffingwell: Questions for staff or a motion?

Spelman: If we zone this sf-3, the current use would be nonconforming, am I correct?

Yes. It is not conforming today.

Spelman: Move planning commission recommendation on first reading.

Second.

Mayor Leffingwell: Councilmember spelman moves planning commission recommendation on first reading, seconded by councilmember cole. Discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Opposed no. Passes on a vote of 5-0 with mayor pro tem and councilmember shade off the dais.

And these cases will be discussed as separate motions. Does council have any questions?

Mayor Leffingwell: Questions? Councilmember.

Cole: Cole move approval.

Mayor Leffingwell: Councilmember cole moves approval on first reading. Seconded by councilmember riley. Any discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 5-0 with mayor pro tem and councilmember shade off the dais.

The next item is motion number 20, agenda number 55 and your action is approve the special use infill option for the west austin neighborhood group. Neighborhood combining district. This is small lot amnesty. The situation is pretty much the same for windsor road. Planning commission is recommending for it. The neighborhood stakeholder group, it's the same situation as before, but in this case we have a letter from the west austin neighborhood group stating they are not opposed to it and staff is recommending for it. Does council have any questions?

Mayor Leffingwell: Questions? Motion?

Move approval.

Mayor Leffingwell: Councilmember riley moves approval on first reading, and would you also move to close the public hearing on item 55.

Riley: Yes, I would.

Mayor Leffingwell: Is there a second? Seconded by councilmember spelman. All in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote 5-0 with mayor pro tem and councilmember shade off the dais.

Okay, the next two items, 21 and 22, part of agenda number 55, also deal with garage placement and impervious cover and parking replacement restriction. This is also for area wide. The only difference compared to the windsor road is that the planning commission recommended against garage placement in the west austin neighborhood group planning area. They are recommending for impervious cover, but are against garage placement. Again, the neighborhood stakeholder situation was the same and staff recommendation is to recommend for both design tools. Does council have any questions?

Mayor Leffingwell: Questions or motion? Councilmember riley.

Riley: I'll move staff recommendation on both 21 and 22.

Mayor Leffingwell: And councilmember riley, first reading on item number 21. Is there a second? Seconded by councilmember spelman for the staff recommendation. And all in favor say aye.

Question, mayor. Sorry.

Mayor Leffingwell: Councilmember morrison.

Morrison: I guess I want to idea this why staff recommended it and planning commission did not. The garage placement.

I think the primary reason was there were a number of people who -- who attended the planning commission meetings and they were all from that area, from the west austin neighborhood group side. And there were some representatives on the windsor roadside who said they were supporting the garage placement tool. The concerns -- I guess i should state the concerns that people raised were many of the lots, they are older. They may not be compliant now. You know, the impervious cover may be high. There were concerns that this would place undue restrictions. We received a lot of opposition letters from architects concerned about prohibiting their ability or their -- prohibiting their flexibility. People mentioned that sometimes you have to put the garage closer to the street to avoid trees. There may be some other reasons for that as well.

Morrison: Thank you.

Mayor Leffingwell: And just to confirm, that motion was on 21 and 22, staff recommendation identical. All in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. That passes on a vote of 5-0 with councilmember shade and councilmember cole off the dais. That takes us to 23.

We are in the last part of the motion sheet, and this is simply to -- the rest are approve rezoning in the west austin neighborhood plan combining district. Motion number 23 is also agenda number 55. This is tract 104. The location is 700 hearn street. The current use is multi-family. The current zoning is cs. Planning commission zoning recommendation was mf-3, co-np with 35-foot height limit t neighborhood is recommending sf-6. We did not hear from the property owners and staff is recommendin6 np. There was a valid petition by the adjacent property owners against staff's recommendation of multi-family. Does council have any questions?

Mayor?

Mayor Leffingwell: Councilmember riley.

Riley: I have a question. We -- during the public comments, we had one speaker who provided us a map of -- a diagram with the properties on it and on this property the assertion was there are actually only 30 units per the owner. Where did staff find the number 38?

I looked into utility account data. So that may be something we -- it showed 38 units, and that's why with 38 units on a site that's less than half an acre, it triggered such a high zoning category. I'm not sure of the data miscalculation identified. If in fact that's true, that would probably -- I'm sorry?

.

You talked to the owner and they confirmed.

Mayor Leffingwell: Please. You don't address the guys from the gallery. If somebody has a question for you, they will ask. Madera stated that he spoke to the property owner. We had made attempts through this process to contact the property owner. We never heard back from them. Mine was just coming from what I found in utility account data.

Riley: If there were only 30 units, do we know what the recommendation would be then? If sf-6 was based on 38 units, then how would that need to be adjusted if there were in fact only 30?

If it's 30, it would be roughly 60 units to the acre, and we're checking to see what that -- it would drop it below mf-6. And we'll see if it's mf-4 or mf-5.

Mayor Leffingwell: So the valid petition is against anything other than sf-6?

Mayor.

I believe so. We just have to keep in mind the property is zoned cs. So it was clear their intent was against staff recommendation. I'm sorry. So it was -- the petition -- Mr. Guernsey has corrected me. The petition was against the mf-3, so mf-6 would be included with that as well. And we're still looking to get that answer on what zoning category.

Mayor Leffingwell: Do you have a question, Councilmember Spelman?

Spelman: Given what you know about the site, even if we're 30 units, is it conceivable that this building could be a conforming use at sf-6?

No, and primarily for two reasons. One, sf-6 does not allow apartments and the density is much higher than -- okay, and then the -- higher than what's allowed under sf-6. What we were trying to do -- first of all, our intent in the next three was to eliminate cs in these areas. And so we were trying to match up with the best -- the zoning category that matched it. But sf-6, in our opinion, would not -- would create nonconformance.

Spelman: We're just basically arguing about the number.

The question is density. Staff is supportive of putting a height restriction on it, the 35 feet.

Morrison: I thought I understood the valid petition was --

I'll read it to you. We the undersigned owners of property affected by the requested zoning change described in the reference filed do hereby protest against any change of the land development code which would zone the property -- I'm sorry, other than mf 3 np, recommended by the planning commission and this is compatible. I apologize. I read that quickly. It is against staff's recommendation of mf-6.

Morrison: It sounds like it would hold as a valid petition against sf-6. It said it's against anything other than mf-3?

It did say any classification other than mf-3. I don't know if law has comments on it. guernsey, do you have something you want to share with us?

Still working the density question. If the petition says -- and it says property to any classification other than mf-3, if you did mf-4 or mf-1, sf-6, mf-6, I guess it would be you have a petition taking up that. The only thing this petition would allow you to have is mf-3.

Morrison: What about mf-3 co?

It would be opposed the way it's written. It just says to any property classification other than straight up mf-3 np. So if you made it more restrictive than mf-3 and you HAD A BUNCH OF COs -- THAT'S The way it's written.

Morrison: So we only need four votes today, the super majority, so there could be reworking of the petition. So I'd like to make a motion of planning commission recommendation.

Martinez: Motion by councilmember morrison, seconded by councilmember spell. Any other discussion? Councilmember riley.

Riley: I'll support that night but I would be interested in hearing on second reading what the appropriate zoning -- if in fact there are only 30 units. I mean I've heard loud and clear a lot of folks want to go keep deep eddy and I'm with -- I share that sentiment, but to me that means like allowing something consistent with the current development. And if that's something higher than -- if that means fm-4, i would be open to considering mf-4. We could consider that on second reading.

Yes.

Martinez: Motion by councilmember morrison, seconded by councilmember spelman to adopt the planning commission recommendation on first reading only. Any other discussion? All in favor. Councilmember spelman. [One moment, please, for change in captioners] .. it is recommending or opposing any rezoning other than sf6. Mp. So this is -- this is clearly consistent with what the neighborhood recommendation is.

Councilmember morrison.

If I have my numbers right, this lot, according to what the neighbor put speaker provided, this lot is 6230 square feet, but the minimum lot size for mf2 is larger than that, so I'm trying to reconcile a recommendation by staff that is inconsistent that would make it -- that doesn't meet the zoning.

This is one that I don't know that there's anything that we can do with zoning to make it consistent. The challenge with sf6 while its lot size meets the minimum requirements, it doesn't meet it on size and it doesn't meet it on the density. Quads are not allowed in sf6 and the density is too high, and that's reason we went with mf2 because that falls within the density -- the density ranges.

How many would be allowed on this property if it was zoned sf6?

I don't have that immediately.

Okay.

But it wouldn't be 4.

All right.

It might be two or three.

So it's going to be noncompliant some way.

It's a little less noncompliant with mf2 with you -- but it's not fully compliant.

Less not compliant. That depends on if you feel strongly about lot sizes or not. I want to make a motion of neighborhood recommendation of sf6mp.

Motion by councilmember morrison. For the neighborhood recommendation first reading. Is there a second?

Second.

Second by the mayor pro tem. Discussion?

All in favor of the motion say aye.

Aye.

Opposed say no. Looks like that passes on a vote of 5-0. Councilmember shade and coal off the dais.
Item 25.

Okay. This is also within the same area, all of these previous areas are within -- or they're all physically proximate, number 25, on agenda number 55, located at 2310 west 7th street. Its current use is single

family, it's also zoned cs, the planning commission zoning recommendation is sf3. The neighborhood stake holder recommendation is sf3-mp. Property owner, initially was wanting the same zoning request as what staff had for number -- motion number 23 which was mf6. She has subsequently changed her oh recommendation to sf3. Staff is recommending there is no validation, but one has been submitted, and that was i believe because of the mf6, but within the last couple of weeks the property owner, as I mentioned, changed her opinion, so they're all asking for sf -- recommending sf3-mp.

Does council have any questions?

Motion?

Planning commission recommendation.

Planning -- councilmember spellman, first reading, planning commission recommendation. Seconded by councilmember riley. All in favor say aye.

Aye.

Opposed say no. Passes on a vote of 5-0 with councilmember cole and shade off the dais.

26. And our last item is agenda number 55, this is tract 111, and it is located at 1504 robbinhood trail. There's currently an office there and it's zoned cs. The planning commission zoning recommendation is nonpt neighborhood stake holder zoning recommendation, there was no consensus between nonp and nonu-mp, the reason for the nomump, there was some people that would hope that maybe this property would convert back to a single family. We did not get a recommendation from the property owner. Staff is recommending for nonp. And there is no valid petition. Does council have any questions?

Is there a motion? Councilmember spellman? if we adopted the neighborhood stake holder recommendation, would that provide any additional entitlements to the owner other than the ability to convert back to a residence.

No, it would strictly be to add residential and allow office as well. So you could actually even do a combination of mixed use building within it.

It wouldn't increase the height, weight of the building.

No, adding the mu does not change the development, the site development standards, it just simply allows you to do residential development.

Move neighborhood stake holder recommendation.

Motion by councilmember spellman, first reading, and that would be the motion -- since there's no consensus, the motion I assume is nomu. And seconded by councilmember morrison. All in favor say

aye. Aye. Any opposed say no. Passes on a vote of 5-0 with councilmembers coal and shade off the dais. Congratulations.

Thank you, council.

brings us to item 56.

Thank you, mayor and council, item number 56 is kc14, 2010-0017. This is a property located at 5914 lost horizon drive known as great hills country club. We're only bringing this to you for your consideration on a second reading, depending on what your actions are this evening. There was a valid petition. It is no longer valid. It currently stands at 19.53%. I want to make sure that was clear. The parties, the neighborhood, and the owner, they have met in mediation. I think they've had two mediators, although I think I'll let them probably describe that. They did not reach an agreement. Very briefly, this is a zoning change request from community commercial services, conditional overlay district or grco to grco. It was basically to allow the construction or expansion of the great hills country club for additional tennis courts, the area to be rezoned is about 6.7-acres in size. It was considered by the zoning and platting commission previously, and it was reapproved grco, zoning with a conditional overlay, that would allow for recreation private indoor entertainment. Outdoor sports and recreation, restaurant limited and restaurant general as conditional uses and then permit all other lo office uses. I believe you have several speakers that wish to speak.

We do. Ready for a second, third, depending on what we do?

That's right. Really we're offering it for second reading unless you change something from your first reading.

Why not second and third?

Yes, it could be second, third, the exact same thing, or second reading if you were to change --

okay, any questions for staff? We'll go to our public hearing. First speaker is pamela medear.

I don't know if you want to hear from the applicant first in this case.

Leffingwell: You are the applicant?

I am. I am pamela medear and I'm here on behalf of the applicant, great hills country club.

Okay. You've got some people wanting to donate time to you. Larry harper. Okay. Fred brown. All right. john buford. John buford. Okay. Michael wright. Okay. Michael wright is not here, so that gives you 12 minutes but you give five as applicant so you're up to 14. You have 14 minutes.

Thank you, mayor, and mayor pro tem, and members of the council, I'm here today on behalf of the great hills country club and we are supporting staff's recommendation of grco with a 22-foot setback adjacent to

the southern half of the tennis courts, and a time of to turn off the lights which is consistent with what the other country clubs are doing in the central texas and the austin area. Great hills country club has tremendous support for this project, for this zoning case. They have 566 signatures from neighborhood people and community residents all in support of this zoning case. In addition to that, great hills has 57 community residents that came here , and signed up to register their support for the zoning case. And out of respect for the council's time here today, and the other community citizens who are waiting to hear these cases, you are not going to hear from all of them, but I would like them to take this opportunity to just briefly stand up so their support for this zoning case can be shown. Thank you. I'll be here to answer any questions that anyone has and to rebut if necessary.

Leffingwell: Thank you. You had 12 minutes to go. Kimberly updegrove. Correct me on that pronunciation. Okay. So you have -- kimberly, you have three minutes.

I'm kimberly, I live in the great hills area, and i thank the council for allowing me to speak in support of this proposal to approve the great hills expansion of the existing tennis facilities. I think there are many reasons to support this proposal, but there is one compelling reason, and that is the expansion of these facilities are consistent with the cities, the states, and the nation's goals to improve physical activity levels of all residents. The expansion of these facilities, the evidence that they will be used is seen by the waiting list of people who would like to use the tennis facilities, but cannot because they are too limited in size. The expansion then, I urge you to support, in support of our public health goals. Thank you.

Leffingwell: Thank you. Last speaker for is allen stoner. Allen stoner. Okay. now we'll go to the speakers who are against. William bosqueing. Okay. You have some folks donating time to you. Darlene bosqueing. Lfort. christina jansen. Okay. Kathleen hamilton. Okay. So william, you have 12 minutes.

Thank you, mr. mayor. Good evening, mayor leffingwell, and city council. I want to thank you for your patience in this case and your attempts to reach a compromise in this case. And I suppose that probably a number of you already have in mind what you would like to do on this case this evening, but I want to just briefly make a final argument for why we think our requests in this case are reasonable, and the main point that I want to make tonight is shown on the first slide here, and it's tempting in this case to think that this is -- that you're asking -- you're being asked to decide between saving a business, a local business, and -- or listening to the unreasonable demands of the local neighbors, and what i really want to say tonight is this is a false choice, it's a false dichotomy. We are not against the club. We don't want to see the club fail. In fact we're basically in favor of their expansion as proposed. We're seeking only to have a few minor restrictions placed on this expansion. And the real question for you this evening, it's been clear now for I would say a number of months, that it's likely that the club will get basically what they're asking for in this case. They will get the proposed zoning change that they're asking for, and have the ability to do their new tennis expansion. The real question is in the process of granting them this zoning change, in the process of helping their business, will you also do something small to protect our neighborhood? So again we think this is a false choice, a false dichotomy. I would urge you to believe that you can do both. That you can help the club and the neighborhood, that there's really no dichotomy here. And that's what I'm going to try and convince you of in just a few slides. The next slide. So I briefly want to remind you of what they've requested and then show how our proposed compromise affects what they have requested

or affects their business model this is the property in question, it's about 6 and a half acres. It's directly across there our property. They're seeking to take five uses on this land, which are currently prohibited under the current conditional overlay and have been so for ten years and make those items conditional, and they're seeking these changes so they can have greater freedom in running their club house and in doing indoor and outdoor entertainment on the property and so they can have tennis courts on this property and again basically we're not opposed to this basic change in their business model. So I would like to next show you our proposed compromise and the small restrictions that we're seeking. So we're also suggesting make the five uses that they have asked for conditional, but establish 22-foot buffer along lost horizon, the entire length of lost horizon drive with that as a vegetative buffer with live oaks and other vegetation and we're seeking restraighted hours of to on outdoor recreation and community recreation private some of the the first thing I want to point out is that in general here they're getting what they were looking for. They're getting the five uses that they asked for. They will have the ability to expand or renovate their club house, new forms of indoor and outdoor entertainment, more freedom to have liquor sales in their restaurant or whatever they want in those terms and to have the tennis courts on the property. So in general they are getting the basic thing that they asked for. So what about the specifics? How do the specifics of our compromise impact the specifics of their proposed development? Back one, please. There we go. So the first thing I want to illustrate on the specifics is location of their proposed development of tennis courts. This is a drawing that the club provided to us in a meeting that we had with them. The blue rectangle shows the location of their proposed new tennis courts and I have put on this drawing the green shaded area, which is our request for a vegetative buffer, and you can see that side by side on this drawing really without modification. We have progressively modified the size of the vegetative buffer that we were seeking from something larger down to what we thought was the minimum of 25 feet t club then presented us with some restrictions on their property, the location of gas lines and other utilities, and they indicated to us that they needed 22 feet, so we said, okay, we'll do the 22 feet, and this is an example where they showed us a specific need and we accommodated their request and changed our proposal. And I would just like to conclude on this slide by saying location of these courts is on the exact portion of their property that they intended all along within feet of where they planned it all along. So I don't think that they've had to change anything on their business model there. So what about the number of courts that they're proposing and hours of operation, how does our compromise affect that? Well, currently they have four tennis courts on another part of their property and they're open until ten o'clock. They're now proposing to have 8 tennis courts. They claim this is necessary to help their business model, that they really need this number of courts to compete for tennis players within the local market. We understand that. And under this proposal, they're going to have a greatly expanded number of courts from four to eight, and in terms of hours of operation, we're asking for , and this is basically fourteen of the fifteen hours that you would , and they will still have the other four courts open until ten o'clock. And we're willing to consider a number of kinds of exceptions to the 9 o'clock for tournaments or for league play or for parties that they might have a certain number of times per year, whatever they might want to have those exceptions for. So we think this is a reasonable request. I want to point out one more thing about it. We talked to a woman named martha ware from the central area -- central texas -- or capital area tennis association. Sorry. She's a leagues administrator for that association, and we spoke to her about hours of operation and we've also listened to the club zoned tennis pro about when league play or tournament play typically terminates in the evening, and they said that it would be rare for play to continue beyond 9 o'clock. In fact martha ware from the tennis association said that they typically try to avoid play after 9

o'clock because they have found other neighborhoods don't like that, and in fact that a number of the players in their leagues don't like that, that they want to be home by that time of night. So that obviously resonates with us. So frankly we can see the need for more courts. We can see how this helps their business model, but it's a little hard to understand how four courts out of the eight total being restricted for one hour of time puts a serious demand on their business model. And we could make basically the same kind of argument on the content of the vegetative buffer. We've proposed certain types of trees be put in the buffer. Live oaks. We have a number of reasons for requesting that, and basically we've heard no reasoning on why this imposes a serious imposition on their business model, ability to run their business or to take care of their property. So that leads me to my last slide, where I basically want to step back and say what's really -- what is really going on here? And to illustrate that I have an offer that the club made to us a couple of months ago in a meeting, and an offer or the current proposal that we are giving to you this evening, and you can see they're very similar, so the club on that occasion proposed that these items be made conditional, they described a vegetative buffer that contained monterrey oaks and other species. They said they would agree to restricted hours of operation to 9 p.m. A few days later, after that, before city council meeting that was scheduled, they rescinded that offer and basically wouldn't talk to us or negotiate. So you can see our current offer, 22 feet, live oaks, restricted hours of , but with some exceptions is very similar but this some ways for permissive than something they offered a couple of months ago. So what is going on here? Why are we really arguing? Why haven't we reached a compromise? And what we feel is going on is they really don't want to agree to anything being put in a ordinance or a public covenant, and instead they would like to delay the process or try to get people off the petition, which they've basically been successful with, and what I want to say is basically this is -- it's understandable. They're defending their business. Why would they agree to impositions on their business voluntarily if they didn't have to? And I would say to you that you should also be reluctant to impose restrictions on them if these items were already permitted, if there was no community opposition, if these changes were not going to hurt anyone else in the community, but none of those are true. These items have been prohibited for ten years. They will affect people in the community. And so we think, you know, that's why we would like you to take action on this item, and in terms of the amount of opposition that's remaining in the community, I would like to say a few things about that. Our petition currently is invalid in 19 I .5%. It's bounced around between 18 or 19, and high 20% as this case has gone on, and we've got new people on or they've convinced people to come off. During this whole time it's been greater than 50% of the land owners within 200 feet who have signed the petition. Because the club own as large portion of the land within this perimeter, its difficult for us to actually get the 20%. A couple other things we could say is almost everyone who is adjacent to the proposed tennis courts is still on this petition. Two of those people are in the local neighborhood association which at times have been either newly or in favor of this, I might ask all the people in the room who stood up, you know, where they lived. Do they live in the 200 feet that is most affected by this? Or do they live somewhere else around the golf course? And where they club members? So the people who are most affected by it are the ones who are being the most vocal and we would really ask your help -- I'll wrap it up, I apologize.

That was your time.

I understand, sir. Just one phrase.

Finish your sentence.

Yes, sir. We would appreciate your consideration on putting these items in the ordinance or in a public covenant, thank you for your time, whatever you decide, i appreciate your time in this case.

Leffingwell: I have two comments. Number one, I'm a little puzzled by the request for all live oaks. Contrary to good practice. I know the city arborist would never recommend a monoculture.

We do also, I meant including live oaks. Absolutely.

Some live oaks but other --

yes.

Okay.

Absolutely.

The other thing is do you know of any night tennis courts that require closing at 9 o'clock in the city?

We did an informal survey of closing hours ourself and we found that it was quite variable. Information we had I'll have to ask my wife for the exact sources, I apologize, is that for the city they follow city curfews and they close at 10 o'clock, but for private clubs, it's common to have 10 o'clock say monday to thursday, have 6 o'clock on friday, and have 6 o'clock on saturday, sunday. Or different hours and we found a variety of hours that were not -- not funny. We found a variety of closing hours for different places that we polled.

I kind of prefaced my remark by saying night tennis courts.

Yes, that's what I mean.

I mean 6 o'clock is --

meaning the same institution had different hours on different days.

The last thing is you inferred that the neighborhood association has been alternately on one side and the other of this issue in support or not in support.

Can I clarify that briefly.

Where are they currently?

I don't speak for them.

Okay.

We're not part of that homeowners association. What I was trying to indicate and did too quickly is that the great hills homeowners association in question only have partial overlap with the property in question here. There's only three people who are in the homeowner association and two of them are on our petition.

Thank you.

Their official position i can't speak to. They told us verbally they were neutral or positive at different points.

I'll ask the same question of the applicant. Next speaker is jason jansen. Joanne ludtke. William hamilton. Both in the chambers, so you have nine minutes.

Thank you, everybody. My name is jason jansen. I also live in great hills, I want to start off by telling you the first time I've ever been involved in city council, when I was a teen-ager and in boy scouts and a requirement for the citizenship and merit badge, I would say that I've spent a lot of time here with you all and I can generally appreciate the challenges you try to resolve for us every single day. I want to let you know when we purchased our home in great hills, we moved from houston, texas, where there is no zoning at all, we knew we were moving next to a country club. We like being next to a country club, it provides an anchor for the community and the property values. We did have some reservations and asked the previous owner what type of traffic noise and conditions have you had to deal with that have been somewhat inconvenient and it was a simple response of a couple of swim meets a year and we felt like that was tolerable. It's been this way for ten year, we decided to go ahead and purchase our property. Earlier this year we received a notification from the city saying that things are going to change, we're going to go from grco to grco, now that is a foreign language to me, we quickly figured out from members of the club what the real plans were, we basically were asked in that letter to express our opinions, that's Rent hours and we d a variety of hours that were not -- not funny. We found a variety of closing hours for different places that we polled.

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okay. I just want to point out that larry harper absolutely gets our position. It's a very fundamental practice. There's an interrelationship here between two factors, one activity levels, and two distance, if you're going to build activities that are going to impact our homes far away from our homes, then we're not even here. We don't even have a conversation to be had. At the time we were talking about a 100-foot buffer from the right of way, and the agreed to 9 o'clock hours of operation. We have since worked with them on getting a more appropriate buffer to account for their land restrictions in terms of space. We've also worked on them with expenses related to gas lines and manholes down to that is being fair and reasonable from the neighborhood perspective, and at the same time, these offers that have been made along the way have been rescinded, so I ask you today is this being honest? Is this being truthful? Is the neighborhood being unreasonable? Many of your policy aids have been very generous and extremely helpful in trying to assist us in reach ago compromise, and I believe your own policy aids can give you

insights into which parties have been honest agents. Now, we are not asking for much here at all. They are going to be receiving a lot of removals of restrictions on their zoning. They're going to be able to build their tennis courts. Broaden their social membership base, accommodate the need for tennis, and increase the property value, and diversify their income streams, pretty darn good for a nonprofit organization. Now, I would say that they currently don't use their tennis courts much past nine anyway, they own tennis pro has told us twice we'll probably be done by 9 anyway, so it's confusing to us, we want you to help protect the neighborhood in the event this organization, even with tennis courts, is not successful and has to be sold. We need protections in the event that they're not around long-term. I'm a graduate of the university of notre dame, and we are known as the fighting irish. We just signed a four year deal with texas, pretty excited, but as an alum, notre dame asks us what do we fight for? And here we're fighting for social justice as well as political justice. Fairness. So I ask all of you individually think about this, if you received this notification earlier this year that tennis courts and other activities are going to be going on outside your home and you have young children that you want to care for, sleep that you would like to get so you can do the job during the week, what would you be fighting for? We all want this issue to be over and I completely understand that, but listen to this one last point. When you guys make your decision today, it's over for you, but for us in the neighborhood, every day and every night we have to live with it. So I ask message do you all want to send to the neighbors and the city about neighborhoods that act in good faith, followed all the rules, and are honest and transparent along the way. Last time I checked the address of my home said austin, texas. Not houston. Let's keep it that way.

Mayor?

Councilmember spellman.

A question of the speaker?

Sure. Either you or the previous speaker, I can't remember who is responsible, put a slide showing exact differences between your two positions which are so small you can almost -- you can barely put a knife between them. One of the differences is between the 20 and 22-foot buffer, what is the -- practically speaking what is the difference your point of view between a 20-foot buffer and a 22-foot buffer. Does it matter.

We originally said tried to build them somewhere else, we said put them about a hundred feet away, which there are other cases we can reference where 10-foot rights of way have been granted. We negotiated down to somewhere around 40 some feet, the bottom line is they're back down to pretty much where they were going to put them to begin with. For us we spoke with the city arborist, 25 feet gives adequate space to do this, you know, is it 100% accommodative for them to have 25 versus 20, why are we here is what I'm asking. An actual single family home has a setback along that street, here we're going to erect four tennis courts with activity, noise, parking, we're just asking for some guidance in the ordinance because it doesn't eak specifically to tennis courts.

Okay. I think I understand your answer. What is the difference between your point of view between monterrey observes and live oaks. Why does it have to be live oaks.

I can defer to bill on that, but we basically used the city arborist again in that situation and we're looking for species that match the treat that we live on t neighborhood is full of them. They have heritage trees they're going to cut down that are live oaks.

You want to replace live oaks with live oaks basically.

Correct.

Ci answer briefly? A number of reasons, we spoke with the city arborist, a tree native to texas, native to austin, proven to be successful in austin, proven to be successful in traffic islands and medians, it's a tree that is specifically recommended for buffers when you read description sheets of it, it's the tree that lines our streets and our neighborhood, it's intended to integrate the club with the neighborhood.

Okay.

Of course we meant with other appropriate species. Now, could we consider live oaks -- I mean monterrey oaks if we had to, sure, but we, given the number one tree recommended by the city arborist, with other parts of our compromise, we recommended what we thought was really the best one.

I understand. Last question. If the difference between nine and ten strikes me as more obviously different than the difference between the 20 and 22-foot setback and the difference between lives and monterreys, but if they were only talking about staying open until ten o'clock if they needed to on tournament days when a tennis match goes longer than expected, you could reasonably expect there would be 15 or fewer such occasions per year anyway. Not knowing in advance which matches would go late s. That so big a problem.

We had attempted to make exactly that compromise as far as I know, yourself and I had come up with this idea independently during this process.

Great minds think alike.

No argument. In any event, it had been exactly our intention to propose 9 o'clock with some restrictions and very briefly on the 22 versus 20, that slide indicates how the process has gone, our understanding tonight is that 22 feet is basically agreed to.

Okay.

And we would like to not continue down a slippery slope of losing 2 feet every time we meet.

This has been -- this case has been frustrating to us on the dais and our staffs and I suspect some city council members in large part because you are so close together, but you went to mediation, your mediation failed. You can't seem to come to an agreement and none of us can quite figure out why, i don't want to belabor the point, because probably I'll go down a slippery slope and I won't be able to climb back

out again either, but it did strike me as I still don't understand why, I may never understand why you can't come to an agreement and maybe I don't need to know.

We will never understand either.

We're all in this together, then. Thank you.

Those are all the speakers. I believe there is a physical restraint, the reason for the 22 feet maybe the applicant can explain your rebuttal for three minutes.

Yes, thank you, mayor. Actually, let me first address the point that was made about the local neighbors are against this. That is not true t local neighbors are in support of this, in fact let me read you a letter from the president of the great hills homeowners association, section 9 and 10 which is the section that is around this project right here. I'll read to you in part, our homeowners association has been present at the multiple public forums held by great hills country club to explain to neighbors and work out possible concessions. Great hills country club has continued to be very transparent with all. Great hills country club strives to be a reasonable neighbor and all actions to date speak to that commitment. I urge the city council to vote in favor of the zoning request. And that is signed by michael wright the president of the great hills homeowners association. In addition to michael wright, as I previously mentioned, there's 566 local residents who have signed a petition in support of this, so I think it is -- it is inaccurate to state that the local residents are against this. There were 13 local residents that signed a petition against this. There's many more that are in support. In addition to that, bosqueing stated that this was just a small concession that he was asking from great hills country club. It may seem small to bosqueing but a closing time of 9 o'clock is not a small issue. If you look at other country clubs here in austin, austin country club, ten o'clock, and they have ten courts t courtyards, 16 courts, ten o'clock. Balcones country club, 10 o'clock, they have 14 courts. Barton creek country club, 11 courts, ten o'clock. The list goes on and on, i could continue to read this list to you of courses -- courts -- country clubs that have more courts than what great hills would have if this was approved and stay open ten o'clock or later. So it may seem like a small concession, but it is really a big issue. And a couple of the neighbors have spoke to the fact they like to look at the golf course and they enjoy looking at the golf course. They are not members of the country club and they don't pay dues to help keep up and maintain that golf course but they live in that area and they get to enjoy that opportunity, and that is part of what great hills is trying to do here today with this zoning request. They want to continue to make their club beautiful. They want to continue to make their club fit into the neighborhood and they want to have the resources to be able to beautify their club, so that people such as the bosqueings and the other neighbors can visually enjoy that club even though they don't pay dues and are not members of that club. As to the setback, 22 versus 20 feet, there's an electrical manhole on the back side which would be kind of the northeast side of the court, and so I think 22 feet is the absolute closest you can get with a setback without actually disturbing that manhole. That may actually be close. I think 20 feet is a much safer distance, but based on a survey, it appears that 22 feet may be able to avoid that electrical manhole, so that is the physical restraint in that regard. With respect to the comment about delaying the process, I could tell you great hills country club does not want to delay the process. They have never wanted to delay this process. They would like to have second and

third reading tonight, and have this be done, so that's incorrect to say that great hills is just stall this process out to affect the petition.

Councilmember shade.

I have a question. We've already done first reading, are we prepared today for second and third reading?

I asked the question earlier, and I guess it depends on what kind of changes are involved.

That's correct. We already for second, third reading of what you took action on first reading.

Okay. I would like to make a motion or take a stab at it, I want to start out by saying this is one of those very difficult cases where we -- you do the best you can. I hate the phrase split the baby, but there has definitely been an effort among many of the aids, several of the council staffers, to really work on a solution. Do I appreciate their work. But I think this is one of those situations where I'm going to take a stab at making a motion to approve -- move approval provisions to the first reading but with a few mod fakes based on what I've learned. 22-Foot setback from the right of way line on the property for any additional improvements on the site. If the 22-foot setback causes the applicant to have to move the existing manhole, then an only then a 20-foot setback would be allowed. On the landscaping, the area directly to the west of and adjacent to the proposed tennis courts, so getting that buffer, and then on the tennis court closure, I'm going to move that we go with the ten o'clock closing time. Again, I don't know how to really split the baby, because it sounds to me that every major tennis club, everyone I looked for, ten o'clock closing, I live right on top of a city owned basketball court, and i watch and listen to basketball and that light goes off at ten, so to be consistent, I'm going to go with ten, but I recognize that that is problematic for some folks and I apologize for that, but that is my motion.

Okay. Motion by councilmember shade to close the public hearing and approve on second and third readings the motion that we passed originally on first reading with the minor change of the 22-foot setback, unless it's physically conflicts and then it would be a 20-foot setback, I believe that is the only change.

And the ten o'clock closing.

I thought the textbook was already in there.

I thought we were silent on that last time.

Okay. 10 P.m. closing.

Mayor and council, so the change from first reading is to reduce the 25-foot setback approved in the first reading to 22 feet, except when there's a conflict --

with the manhole that she just provided.

There was never a provision for a landscape buffer.

I'm adding that.

That is also within the same area of the setback that you're speaking to --

it's to the west of and adjacent to the proposed new ..

The west of and adjacent to.

Adjacent to the proposed new tennis courts and then the last part was the closing, the time for the lights, because I didn't see a way to split that baby ..

And we can probably put that into a form of covenant, the buffer we probably need to get with the owner to really pin down exactly where that distance is from the property line going along and parallel to the roadway so we know exactly where that ends, so we could do second reading tonight, and then come back and work with them on the covenant, but I guess I need to work with the applicant to clarify the distance from the -- I guess it would be the northern property line along the lost horizon trail and where that point ends for the landscape buffer.

I think I may be able to declare that -- clarify that for you this evening if that would suffice.

Go ahead.

The buffer would be along the western edge of the tennis courts from the southern edge of the tennis courts up toward the middle of the tennis courts, so basically if you were to cut the tennis courts in half it would run on the western edge south to the end. I can show you that on a diagram if it would help.

Okay. I might need some point -- what I might be able to do, mayor, is if they can provide me this detail, I can bring it back the law department for third reading next week. You can close the public hearing tonight and then you can vote on it next week, but I think I need something a little bit more precise than just adjacent to the tennis court, because I don't have the geographic boundary of the tennis court to identify an ordinance form.

And I forgot to announce that the second was by the mayor pro tem, and I would like to ask the applicant if he believes there's any way to come up with the necessary specificity so that we could go ahead with second and third readings.

Mayor and council, my name is John Joseph, also representing the applicant. I believe that we can. I think we can provide the council with the legal specification necessary to establish precisely where the setback is, and the language for the motion that was made, and I think that whatever can be handled by restrictive covenant can be done so as a condition to the mayor signing and executing the ordinance, so I think it can be done on second and third reading tonight, and I think that we can follow-up with restrictive

covenant that ties down specifically if we need to the details of this particular action by the council if it's taken.

I don't -- I don't know if we were paying attention over here.

Well.

When you said that -- ..

we just hate for all of you guys to keep coming back.

Mayor leffingwell.

Mayor pro tem.

We still have several hours of public testimony, we could adopt this, allow them to work on it, if staff doesn't feel comfortable, adopt it on second reading only and wait until next week.

Excellent idea. The motion stands on second and third readings and we'll work out the details and come back and approve it at the end of the meeting.

Okay, so that is the motion, close the public hearing. Second and third readings with the thoarp conditions that we've just discussed. Further discussion, councilmember spellman? let me make an amendment which I hope will be considered friendly. The arborist has apparently taken a look at the site and suggests one additional addition would be that the buffer be consistent with the requirements of the city's grow green program. This would require native plants and would prohibit plants which would not be consistent with the natural growth of the neighborhood.

So the condition maker and seconder.

I think grow green is a great idea. Thank you.

Anything else? All in favor say aye.

Mayor, excuse me, I want to say --

councilmember morris.

I'm not going to be able to support this motion, i bosqueing and jansen did a compelling job of putting the situation in context that basically this is a new use, a new entitlement that is being given to the country club which is I think everybody agrees in many ways is a good new use, but when you're moving in to an already existing area, it's important to have respect for what's already there, and for me one of the most important things is the hours and while some people may already have moved into an area where there are lights on until ten o'clock and you know what you're getting into, asking -- having new lights on until

ten o'clock is a different story and I just think that it's really important that there would have been some kind of compromise on finding something to do with the light hours so I won't support it.

All in favor of the motion say aye.

Aye.

Aye.

Opposed say no.

No.

Passes on a vote of 6-1 with council morrison noting no.

Item number 60, I believe we have one speaker in opposition, the remainder of the speakers are in support, and not all of them wish to speak, would you like to receive a staff presentation on this item or would you like to go ahead and move on to the -- straight to the speakers?

Excuse me f said we have one speaker in opposition, several speakers in support, however not all of them wish to speak, would you like to go straight to the speakers?

I've got -- I've got 60 minutes worth of testimony on mine.

They signed up, we've been --

they changed their minds.

We've been talking to them as the day goes along. We can do a brief staff presentation or we have a powerpoint or I can go through the basics of the case and turn it over to the speakers.

I think a very brief thumbnail sketch would be good unless somebody on the council wants more.

Okay. Bear with me, I have to read quite a few zoning categories, I'll go as fast as we can. 2010006, The cattle hill local historic district, the applicant is the cattle hill district nomination team, the requested zoning is from family residence npsf3, family residence historic neighborhood plan, neighborhood plan, 4-a np, urban family residence, 5np, p, public historic neighborhood plan, multifamily residence, moderate high density planner, multifamily residents, mf4h planning, 5conp combined district zoning, gnpo zoning, Inpo zoning, limited office, mixed use, combined district zoning. Commercial services, mixed use, neighborhood plan, combining district zoning, commercial service liquor sales mixed use conditional overlay neighborhood plan, cs1mucnop, and finally commercial services vertical mixed use conditional overlay, neighborhood plan, the request is to all of those but with the addition of an hd historic district added to those zoning strings that I have read. The staff recommendation is to grant approval of the local historic district which the exception of a proposed boundary change do mr. sadowski will success. The

historic landmark commission recommended approval of the local historic district as did the planning commission. I will turn it over to susan kirby and steve saduwski who will run through a brief description of the district.

Glad I didn't ask for the long one.

good evening, mayor and council, my name is susan kirby with planning, development and review department, and I'm happy tonight to show you the proposal for the cassl hill local historic district t nomination team brought this finder in response to the council's ordinance on local historic districts which is for architecturally and historically significant areas of the city and it does represent quite a bit of legwork on their part. They did an excellent job. To summarize, this map is perhaps the best summary, the area is bounded by 6th and 12th street along blanco and baylor streets and is approximately 40 40-acres. There are 148 total 8% of those are contributing which means they were built between 1870 and 1960, the period of significance. 58% Of the land is owned by people who are in support or were in support at the time of application of this petition, and there's several noted texas architects, artisans and builders who have worked in this district. The red represent historic landmarks. There's 16 within the boundaries and 14 of those were built before 1900, so well over 100 years old. And black buildings are the ones that are considered contributing whereas the white are the more modern buildings. This is just a map showing the amount of support. It's not blue. It's the shaded areas represent the support for the district. The areas descended from one plat, division z, and the old city of austin, the original city of austin plat, james raymond who was the treasurer of the republic of texas and the first treasurer of the state of texas owned about 400-acres of which this 40-acres is a part, and it is of course named for the iconic structure that is the texas military institute on west eleventh street. This is one of the oldest structures dedicated to higher education in the state and it eventually became texas a&m. The architecture for this is medieval revival which isn't necessarily prevalent in the district. Here is the map showing the rationale for the staff recommendation. There are basically two reasons, one, the topography which is very steeply sloped is a very natural boundary and the uses in zoning are very distinct. Most of the district is residential and this area relates, although some of it are residential structures that relate more to the lamar corridor. Most of the houses in the district are one and a half story buildings or one story buildings and the beginning, THE LATE 1800s, MANY Mansions were built in the classical revival and queen ann style we were discussing earlier. In the transition and development pattern, once the trolley line along west line was established, more modest single family classical revival bungalows and cottages were built in this area. Besides the 16 landmark structures, there are many other remarkable buildings that without this district status would be vulnerable to perhaps the tear down, rebuild phenomenon that is going on in many of the older neighborhoods. These are two examples, the trautwein house built in 1905. trautwein was an early pioneer and owned property out near oak hill and the buast house, the family was an early austin family and he was a builder, as you see the ad here is from one of the early city of austin directories. We also have the oldest still operating fire house in the district, and apparently it was an early practice sight for the austin symphony, so I don't know if our fire department has a band, but maybe there's a parallel there. These are some pictures that are old west austin walking tour brochure which is on hand at the visitor's center. This is cut from the map of that walking tour, the little kind of squiggly dots you see are the landmark structures and here is just a sampling of the pictures from that brochure which most of these are along -- are within the district that you're looking at right there, a few on the west are a little west of the

district, but just to further substantiate the -- that the buildings in this area are very intact and there's a high degree of compatibility still with the historic structures. Of course the neighborhood work -- there were several meetings besides the normal public hearings, the city hosted two meetings with the neighbors to work on design standards that will become part of this ordinance. The design standards apply to rehabilitation of existing buildings, additions and new cruxes, but they don't apply to routine maintenance or repairs or interiors or anything that is not visible from the adjacent street to the front. These are just some of the general provisions that are general historic preservation items, and there's also been inclusion of many green energy measures to make sure that we minimize any potential conflict in the green energy measures and conservation are encouraged. The rehabilitation of contributing buildings is encouraged by the standards as well, and that concludes my presentation. I'll be happy to answer any questions the council might have.

Questions? So we have people signed up to speak in the public hearing, and I don't know what kind of arrangements --

mayor, I believe we have probably two speakers, one or two speakers.

I'll call out the names and we aisle find out who wants to speak. Laura kelso. And jacque shrad? Yeah. Judith sanders? Okay. So you have six minutes, if you need it.

Thank you. Good evening, mayor leffingwell and members of the council. My name is laura kelso. My husband and I are owners of 901 blanco which is located in the heart of the proposed cassl hill historic district, we are part of the cassl hill nomination team that submitted the application to austin's historic preservation office. Our application is the outgrowth of an effort that began in 2008 to create a blanco street local historic district. When nearby neighbors approached us about blanco street, we were intrigued. Local historic districts are so new to austin that we have little background. But as we learn more about a way to preserve the special character of this one pocket of austin, we embrace the concept. It turns out others welcomed it as well. As we spoke with neighbors, we learned they were interested in having the boundaries of the blanco street application expanded to include their streets as well. Being new to this process, my husband and i, and other interested neighbors, including street team leads, reached out to other neighbors and discussed the local historic district proposal in a very grass roots fashion. I'm not a professional organizer and have never engaged in this kind of process before. Our desire to preserve the unique character of this historic neighborhood is really what's guided our efforts, we felt our way through the process getting advice along the way from nearby neighbors. We've consistently sought to reach out to as many neighbors as we can and be as transparent as possible in our effort to be all inclusive. Our intention and that of supporters of this effort have been driven by belief that having a local historic district will help protect the unique qualities of the neighborhood that we love and want to raise our families in, and in no way has there been any intention to be hurtful to any property owners. From the start the nomi team has had as its core objective to be a local historic district by and for its owners. The majority of owners in our district do not see a historic district as an imposition of new zoning laws, but rather as a mechanism to protect and retain the special character of our homes and our neighborhood and a method in which we can help preserve the city's dwindling stock of historic homes without draining the city's tax base. It deserves emphasizes that the cassl his historic district provides an

alternative to austin's landmark program and there's absolutely no loss of tax revenue to the city unless the district owner undertakes a substantial restoration or rehabilitation project, at which point they receive a modest tax freeze for a limited period of time. But as I said from the application team's perspective, the district would not be a success unless it was created by and for owners. To that end after we submitted the application, we agreed to a february 24th postponement of the landmark commission at beehest of awana to allow time to offer feedback on design standards. We did not object to a second request for postponement in may. This came after three months of intense district owner outreach which included more than four official street team lead meetings and city sponsored meetings that susan kirby just referred to. We incorporated many owner suggestions as possible into the castle hill historic district design standards while remaining content with the secretary of interior's standards of rehabilitation. Thus I stand before you today, backed by over 60% of district owner support, who -- owners who truly believe that the protections that come as part of the local historic district process will provide stability to the neighborhood and balance so that over time our neighborhood will reflect both the charge of its historic character as well as quality new construction that will ad valorem to our area, because of the design standards. I believe you'll hear from an opponent tonight. It's worth pointing out that 68 property owners in the district signed in support while only 3 property owners have filed written opposition to the district. Interestingly, much of the opposition to our district has come from people who do not live nor own property within the district boundaries. To conclude, we have many supporters who have been here throughout the day, but in the interest of your time, we are going to limit only a few proponents who would like to make a couple of very brief comments. Many thanks for your consideration.

Thank you. Edwin jordan? mayor, mayor pro tem, and councilmembers. I live at 1112 west 7th street, my family has owned the property since 1943, the house is 100 years old this year. And fantastic home to grow up in. Neighborhood to grow up in, the ambiance of the neighborhood, everything is just absolutely wonderful. I still have a back yard. I have a chicken yard with a wash shed, outhouse, a horse stall, a two room cottage and a buggy gate, and they're not going anywhere, I don't think. I want to tell a story, my mother, jill jordan, was crippled and couldn't walk the last three years, we made where she could look right through the house, across the front porch over to the property going to be built across the street. An architect bought the old horton died and his sons sold it quickly. Mother contacted him and said she had lived there for so long and she wanted this house, whatever he built, which was going to be a condo, to be appropriate to the street, and arc actually and to the neighborhood, and I'll be darned if he didn't walk up and down the street and drive by, it looks like it belongs. You look up from swedish hill it looks like a penitentiary, from my front porch it looks like it belonged in the neighborhood. She was way ahead of herself in preserving things. She knew what she was doing. She knew the look of the neighborhood was important and should be protected. Thank y'all very much. Appreciate your time and effort.

Thank you. Terry o'connell? And before I forget, I need to announce that councilmember morrison is recused from this sigh testimony. Show her recused.

I will be very, very brief. I came into this process helping out the nominators with the design standards back in march, we've had several meetings, both saturday morning coffees, street meetings, and the city sponsored two meetings which were very, very helpful and we're thankful for the city staff in assistance in that matter. We've developed some design standards that are applicable to the whole district. We're very

excited about them, and I'm representing myself and also the heritage society tonight, this all started with the heritage society trying to develop a design standards template that all local historic districts could use, and so I was already working on that with the heritage society and was able to step in here and help with the castle hill design standards, but I wanted to point out how difficult and challenging this process is for local historic districts in castle hills to be commended for their incredible effort in this area. Thank you.

Thank you. Linda mcneilage? Peter mcneilage? Bridget bedeky? Not here? Okay. That's why I called your name. Mary engel? So you have nine minutes, if you need it.

I won't need nine minutes. I have a little compassion for your time. Good evening, mayor leffingwell, mayor pro tem martinez and councilmembers. My name is linda mcneilage, I have lived on the street which shares a boundary with the castle hill local district. I've been looking at some of the flyers for the heritage tourism at the austin hair tan center, there are quite a few of them, one on congress avenue and east 6th street, one of the old henry trail which overlaps to a degree, the congress avenue brochure, and two brochures with cemeteries, the texas state cemetery and the oak wood cemetery. There's one which includes the austin history center. But most relevant to tonight's hearing is the west austin walking tour brochure. I found it interesting to note that one of the historic downtown properties featured in the congress avenue 6th street brochure is a estimatable building. Many of them built their residences in the castle hill area, first established by james raymond, unfortunately the house that raymond built has already been demolished but residences of members of the buast family and other contribuors to the history exist in the area many of them dating back to the late 1800s, FAMILIES DEDICATED To establishing culture resources in our city also built their homes in the castle hill area, and the landmark west austin fire station was as susan kirby mentioned used for rehearsal activities, not just by the austin symphony, but by the austin junior symphony and by the austin ballet.

The austin tour is the only historical flyer currently available to the early residential neighborhood where the founders of our early city businesses and cultural institutions actually lived lived with their families. It has the greatest concentration of remaining historic landmark residential properties of any neighborhood in city. There's more than ample evidence of the worthiness of this residential neighborhood to be designated a historic district, and the time is now before we lose more of the historic fabric and integrity of the character of the significant historic neighborhood resource for our city. The design standards which owners of the majority of the property in the area have approved of are dedicated to protecting us from careless demonstrations -- demolitions, inappropriate new construction, and additions that turn what have been considered contributing properties dating from the historic period to noncontributing properties that detract from the historic fabric of the neighborhood.

copies of that letter with me to pass around. Remind you that the heritage -- we're proud to endorse the work of the folks in castle hill. thank you. Jerry myers?

Thank you, mayor leffingwell and council. I'm jerry myers and I'm here speaking to you today solely as a private person as a historic preservation consultant. Back in about 2003 my firm conducted a comprehensive survey of all the property between lamar and mopac from sixth street north to about 13th or 14th street. And out of that we nominated the entire area as a left line historic district. I was struck with

how intact, how much historic fabric was still there, how much had not been altered significantly from the time that it was built, and we started small with horizon street, getting our very first historic district on board, and then the blanco street that then morphed into capitol hill came up, and we did a resurvey, an update survey, to see if there were some properties that needed to be changed from contributing to noncontributing or what, and we did, unfortunately, find that several houses in that short period of time had been altered so much that they no longer conveyed a sense of their history. And I just say this to, on the one hand, tell how -- how wonderful and how nsh it is to have such an intact, such a cohesive historic district but to also let you know that within a very short time that kind of fabric can be lost. And I urge you to vote for this. The original nomination was done according to national park service standards and so was the succeeding project. Thanks. thank you. This may be misspelled, tracen gardner? Signed up against, and you have three minutes.

Thank you, mayor, council. I appreciate your time. I wanted to talk with you a little bit first. I'm a long-time resident of the neighborhood, not in the exact affected neighborhood as half the speakers here are not in the affected neighborhood either. I want to tell you that this is a restrictive zoning change that you're considering. I want to offer you some options that are incentive-based. Currently this process is very muddled, it's very muddy and there's been a lot of division brought between the neighborhood. I used to be friends with a lot of people here. Now I can't talk to them. They don't wave to me. I hope that changes because I too am a preservationist and I believe in keeping our history. I don't believe that we need to have criminal fines levied against us if we don't adhere to these design standards. I don't believe that we need to open ourselves up to possible lawsuits. I don't believe that they really have the support of over 51%. I have an opinion that if the opposition had time to organize it, they would have a full petition of 20%, forcing this to a super majority. I believe there's options that you can do that incentivize reservation without restrictive -- without restricting and mandating. I think if you allow more floor area ratio you incentivize them to want to do this. You allow them garage apartments, less restrictive on their parking requirements. All these things do increase value in a property. That's what people want to do. You might lessen the restrictions on impervious coverage. These are benefits. You're not going to receive lawsuits from this. People are going to be able to opt into this. They're not being forced into it by 50 or 51% of their neighbors. If you're able to option into preserving your home, iewrp not going to have neighborhood pressure -- you're not going to have neighborhood pressure, you're not going to be conflicts. There's a clear understanding of what's required to do this. Right now it's very muddled as to what you get as a tax incentive to do this. It may not even be an incentive when you're all done. You're going to have happier homeowners with benefits. You're going to allow everyone to stay neutral. Right now we're pitted against each other. It's my home. If someone tells me that I'm going to have to change it and make it historic, allow me to make that change, this is my property, they're my rights, they're integral to texas. I propose these changes. I feel we have to make this a super majority vote due to the clear lack of neighborhood support and the possible financial ramifications this could cause if passed. This is a rezone on 39 acres. This is very important to us. Thank you.

Thank you, those are all the speakers we have signed up to speak. Anyone else wishing to speak? Any rebuttal from the city?

mayor leffingwell: pardon? Well, come on down and tell us your name.

Hello. My name is kimber. I'm currently thinking about moving into the neighborhood that they're currently talking about.

Kimber reed, correct?

Correct. You find me now? So I love a lot of the historical homes that are in the neighborhood. They're beautiful, but then I also see a lot of the other homes in the neighborhood that just because they're old doesn't mean they have value. I currently live in 78704 area in south central austin area where we have some beautiful historic homes as well as some homes that need to come down as well as brand-new homes with beautiful architecture that brings just as much charm to the neighborhood as the historical homes do. I have a hesitation now moving into a neighborhood that's going to constrict me on how my home that I live in is designed. I'm an interior designer myself. I build modular homes myself. Because two women sit and decide the design regulations I have to follow in my home, who I believe their own homes don't even follow those regulations just doesn't quite seem right to me. If I move into the neighborhood and decide to remodel the home, I would like to say historical if it benefits the home that I'm in and the area, and if I can make the home look better by doing something modern, I would like to have that choice. Thank you. thank you. And those are all the speakers I have signed up. Anyone else wishing to speak? Any rebuttal from the city?

No, sir. Discuss discussion, council, or perhaps a motion? Council member riley? move to approve the local historic district. Close the public hearing and approve the district. a motion by council member riley to close the public hearing and approve item 60 on first reading only. And the second was by mayor pro tem. Any further discussion? I would like to say a word if I could.

Mayor leffingwell: okay. Council member riley. I mainly just want to acknowledge and thank everybody who's worked so hard to get this process to where it is now. I know this has not been easy. We've only had one other district that managed to make it this far in the process, and that was just one short street with ten houses. So this is a huge accomplishment. You know, we've been struggling here in the city trying to figure out what to do about our historic landmark program, and part of the program we've had is that we don't have an effective, functioning district program the way that other cities do. And so it's put more pressure on the landmark program because many, many houses that realistically probably should just be considered contributing structures to historic districts wound up getting designated as landmarks, because there's no other way to provide protection. The landmark district offers some real advantages over our current landmark program, in particular, two things are particularly important to me, one, that the tax benefits associated with preservation in a local historic district are directly tied to the property owner's investment in historic preservation, which is very important from a -- just a fairness standpoint. And secondly, those tax benefits are time limited, which means that the program is sustainable over the long-term. And so that the tax -- the local historic district model really provides very effective, fair and sustainable way to go about historic preservation and that's why they have been so successful in other cities across the country. So I'm very excited that now we're actually getting some traction with our local historic districts here in austin and it's only due to the hard work of everybody, especially those in the neighborhood who have been working for years to make this happen. I know it has not been easy and so I just want to express my appreciation for everything that's gone into it, and I'm glad to support the motion

and recognize the district. what can I say? I support the motion. Been a long time coming. Congratulations to all of you, and we hope to see more of these in the future. All in favor of the motion say aye.

Aye.

Mayor leffingwell: aye. Any opposed say no. That motion passes on first reading only again with a vote of 6-0 with council member morrison recused.

Mayor, that concludes your zoning this evening. thank you. so council member cole moves to extend the meeting beyond 10:00 p.m. Council member riley seconds. All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed? That's 5-1 with council member -- disregard, you were kidding, right? Okay. Passes on a vote of 6-0, with council member morrison off the dais, and takes us to item 62. Sab no

all right. Council, ed, do we have a staff presentation on item 62 or do we just go straight to a public hearing? Straight to a public hearing? Okay. Council, we will now conduct a public hearing to receive comment on the city of austin fiscal year 2010-2011 proposed budget. We have 81 minutes of testimony signed up to speak, and I'll just start calling them out in the order that they appear on the screen. The first speaker is dora chavez, I guess, is how you pronounce your last name?

martinez: okay. We apologize, we're trying to get this done as quick as we can. The next speaker signed up is stewart herch. Welcome, stewart.

Mayor pro tem, members of the council, my name is stuart hersh, and like most people in austin I rent. I'm here tonight to ask you once again to use general fund dollars to support the poorest among us. Smart housing and the austin housing trust fund were created by the city council on april 20, 2000. This year is the 10th anniversary of these internationally adopted policies to promote housing affordability. On september 7, 2000 the city council challenged and directed the city staff to develop a strategy for providing \$1 million a year to the trust fund to promote affordable housing goals, yet this year despite \$500,000 in repaid smart housing fees over the term of smart housing and more robust sales tax and property tax revenue than i know you-all thought you would be facing, the housing trust fund will be at its lowest point since it was originally adopted, appropriating less than \$400,000 in the proposed budget. I don't think the previous council resolutions have been repealed or rescinded, and I know that affordable housing is still a priority. So I ask you to appropriate an additional half million dollars to get \$10,000 worth of repair work done for 50 houses for very low income homeowners, and we do have some very low income homeowners who have lived in their houses a long time and don't make as much money as they used to when they were working, and the repair coalition could get all this stuff done and I think you can find the money to do it. So I ask you to add a half million dollars to the housing trust fund and let our vulnerable homeowners no longer have to choose between housing that is affordable and housing that is

safe. Thank you for your time. thank you, mr. herch. Any questions, council? Thank you. The next speaker is kathy capers. Is kathy still with us? Great. Thank you. Next speaker is christopher hamilton, signed up against the budget. Maria woodset? Is that how you pronounce it? Please correct me if I'm wrong. You have three minutes.

Good evening, council members, thank you for your endurance. I'm maria witset parent of a high school senior and a firefighter academy at isd.

Can you pull your microphone down? The tip of it. Just bend it.

My purpose in coming forward this evening are twofold. First and most important, my family and I want to express our deep appreciation for the continued support of the participating high school students in firefighter academy, including juniors and seniors at lbj and lafa high school. It's gratifying to know these young men and women will have the opportunity to complete the program. Secondly we have to urge the city to reconsider decision to discontinue support for the program after 2011-2012. Everyone recognizes that in tight economic times some pretty cold decisions need to be made about allocation of resources. At the same time no one wants to provide students with less opportunity, especially when they're graduating into a weak economy. Please keep in mind that investing in students is not only laudable, it is good economic policy, as i pointed out back on august 5. My father used to tease me as only he and east coast naves could. "Go ahead, get your education. I want to live in florida when I'm an old man so you " seriously, now, the fire department motto is our mission goes beyond our name. It took tremendous wisdom, effort and funding to establish the firefighter academy. We applaud the actions that allow the afd motto to come to life for our high school students. It will be another small but very real american tragedy if this program were to cease in two years. You'll be taking away a source of hope and pride for the students who truly need those. You'll be scuttling significant investments made to establish the program, and you risk damage to the partnership between the school district and the city. We don't want that to happen, not for the seniors already in the program, not for the juniors starting in the program, and not for the cohort of students to come. As firefighter isaacs tells the students, one band, one sound. We urge you to look beyond this moment and renew your faith in and the funding for this outstanding academic program. If there are ways we can help the city to sustain the program, please tell us so we can roll up our sleeves and get to work and help protect this opportunity for students. Again, on behalf of our son and the other students in firefighter academy, thank you for the opportunity to speak on this item. thank you, ms. witsit. The next speaker signed up is debbie russell. Is marcelo tafoya here? Joyce graciano? Stephanie collins? You have six minutes.

Thank you very much. I'm debbie russell and I'm pleased to inform you that your virus protection program has been activated, and if that joke is lost on anyone, I offer my apologies for that technical snafu. Before I get started on my presentation, I wanted to add in one comment because i know that this isn't exactly the moment in the budget we do this, but while we're looking at the public safety budget, I think considering the recent findings about ice in our current -- our jail, we need to use all of our leverage that we can with the county, with our interlocals for the money we pay to house inmates there to make sure that we curb this, because as we know, public safety is seriously affected when people are afraid to call the police on any given incident. And I also want to offer in hersh's comments, this has been said before

but it can't be said enough. When social service needs our metz, public safety concerns decrease. And if we can get to the first slide. The police budget is a politically protected piece of our budget like no other, and the question here is, is after we had the vote on the sanders settlement a few weeks ago, can -- which was politically driven to a large degree, it had -- which also seriously affected our -- had some landlord and financial implications, can we be responsible right now to really look at our public safety budget objectively and not have it be driven politically. And in line with that the -- three years ago we hired mgt of america to conduct a public safety assessment, and we spent \$315,000 on this and they submitted the report back to us two years ago, in june of '08. And unfortunately it went ignored. We talked about it at the public safety task force and it was well, poo-pooed essentially, by a couple members on the dais that also happen to be the same ones that poo-pooed the sanders settlement at the last minute and just like we also poo-pooed the key point report. We have a bad habit of -- poo-pooing experts when they don't give us the analysis we want. But in line with the first slide, exhibit 3, on page 8, the -- the fact that austin spends more money on police in other cities in our state and peer cities across the nation which this report showed, is in and of -- isn't evidence in and of itself of waste, but that money that's spent should result in better police performance. Unfortunately we're still behind a national average on violent crime, case clearances, we're behind dallas, by the way, we're behind in response time too, some of our peer cities, san antonio, boston, portland, an mgt said that the size of the department can be an indication of its effectiveness but not necessarily an indication of its efficiency as there is an upper limit by which full time employees returns. The first chart on exhibit 3, on page 8, there's a chart to get to. That shows us how much we -- yeah, page 8, sorry. That shows us that we are spending a lot more per capita on our police budget, and that we have been doing that, very steadily increasing that. So if you go to page 8, yes, thank you very much, that will show that we've been doing that since 1995. Page 8, keep going, exhibit 3. Right there. We have that -- those expenditures are growing at a faster rate than the general fund revenues, so soplease keep that in mind. Exhibit 5 also shows how we compare with our peer cities. Yep, it coming up. Oh, I'm sorry, this one, exhibit 5, is one of the things they recommend that we said we don't want to do. This is that we need to do a better job of establishing tracking and communicating meaningful measures related to demand and performance and use that information in the decision-making process. The next one -- the next slide on page a3, there you go, that is -- that said that we shouldn't consolidate, and we did, and so my question to you, which I haven't been able to get an answer to today, is what we're suggesting in the budget right now is putting 48 sworn officers on the force and two civilians, and in a minute we'll show you a chart that says that we're not putting enough civilians to support our sworn officers on our force. But that we went ahead and did, and right now what I'm hearing is, is other than the 13 sworn officers for attrition, the rest of them are basically getting back what went away in consolidation, so we got rid of people and now we're having to hire back. So that is something we need to look into, and if you can keep going to the next slides. The restructuring too. We had -- they said that we should get our police monitor liaison in an office separate from internal affairs, but we, in fact, iminated that position. S we're hiring new police monitor we need to look at that. It also said -- oops. Well, I was hoping for nine minutes but didn't get there. Let me sum up. Two is not the magic number. There is no -- if you keep looking through these reports you'll see that we're, in peer a naldz, we analysis, we are on average with our number of officers, a ucla climate --

thank you, ms. russell. That's your time.

Next speaker is mr. govino vendors. Okay. fernandez we have joy quintero. Joe signs up a lot but he never shows up. I wonder who's signing him up back there. The next speaker is brian rogers, and brian, you got some time donated to you. Is linda curtis here? Welcome, linda. Rusty smith? Tracen gardner? I think he's left. Rentear also left. Or, tara is here. Okay, you have nine minutes.

Thank you. I'm brian rogers with change austin.org. I'm here bearing some bad news about the waller creek tif. I didn't really intend as to start investigating the waller creek tif, but when the city attempted to buy the land next to the convention center I got interested in all the commercial property up and down waller creek, and as i went through it and have since read the new cds report, that if the city continues with the contract on this property, that -- with the construction contract, let me try to go ahead with this thing. Can you -- that -- I don't mean to be overly dramatic. I know a lot of people have put hundreds and hundreds of hours into this project, a lot of time and effort, and I think people wanted to see it happen, but I am -- the numbers I see are very, very disturbing, and let me go on to the next one. Can you tell me which button I push -- okay. The previous projections on waller creek so the entire basin captured value by inflated by 3%. 6 million of office space. The commercial activity over the past four years was projected to be higher than the captured -- and the captured appraised value was higher. But for this presentation I'm going to make with you, there is zero inflation we can expect between now and 2015, if not deflation. A banker I talked to said the yield curve is flat and I projected 3% inflation from 2016 on. I used the build-out projections from the cds spillette project and used actual commercial activity. So without grinding you guys through the numbers, right now the fixed -- the captured -- the total assessed value is 236 million for the city of austin. These numbers are fixed. These are -- the past three years of total taxable value, and now we have the captured appraised value is fixed. So we know what we are up to this point. We're up to that bar line. So now we need to project forward. This is the tax that's actually due. So how do we get these captured value numbers? Well, the cds flat report tells us that during 2010 to 2011 we're going to build about 40 apartments a year and 25 condos. So you project outward with all these numbers. What are these numbers? What does an apartment cost, what about a condo, office and hotel. I looked on tcad apartments, legacy of town lake cables and flat river, averaged about 140,000 per apartment, let's call it 150,000. Condos, waller creek, average about 300,000, that's what we'll call about mid-price. The luxuries are about 600,000. Hotels, I got the cost per room, or the tcad cost per room, sheraton and the courtyard about 100,000, and luxury courtyard is 150,000 a room. Office I used \$230 a foot, which was usual projections retail at 195. So this is what I'm using when I plug into the cds spillette report, and I have done that for each year and projected forward. So basically what we get is by the year 2015 we have a hole in the tif of \$7.4 million. That is a giant hole that will be made up in the general fund. So I even changed the bond payments. It was 7 million, because it 59% and i looked on line it looks like maybe 4%. So I reduced the bond to 4, but we still have close 2 million that we have to make up through that new captured value, and it's not there. We're supposed to be at 6 million in value and we're closer to like 1.4. So as you roll out the years, this 7 million, 6 million, 6 million, 5 million, 5 million, 4 million. It never catches up. Even at the very end uses cds stillette numbers we're at the hole into the very end and the county is out and we're back into a \$4 million deficit. There is no rainy day funds. This was supposed to be -- the waller creek reserve fund was supposed to fill it in, and there's nothing there, at least according to this reserve fund here. So the waller creek tif is nobody's fault. The market has determined that this project will not succeed as planned. You know, basically we -- you know, the captured value will just not get there. This is a little curious here, because this report that you guys I believe just received on june 16 about this cds stillette

report, this report was finished back in 2009. The last reference within the report, and the report isn't dated, so I'm wondering how long city staff may have sat on this report without passing it on, because it's -- I think it's rather -- the alarm bells should be sounding on this project. So this is the end of this. I want to go on a second part of a presentation that I can run out of time, it's called stop doing that, please. This is a property tax comparison in the budget, says medium price home in austin is 187,000. That's not true. That is the price in the msa. The msa is 187,000, but it includes san marcos to georgetown. I went to tcad and got the numbers, the actual median value is 212 so those numbers are wrong, so the amount that austin pays in property taxes is actually higher. This is georgetown peer review here and it's where austin is not the shining example that that slide that the city may have seem. Stop doing that, please. This is the city sales tax revenue share that council member shade had requested, and we want to know what is austin's share of the tax. Well, this is misleading, because austin charges only 1%, whereas round rock charges 2. The correct chart, we're not losing that much in sales tax. spelman went through that in another study, that this calculation leads us to the wrong conclusions. Stop doing that, please. Here is in the city hall fund. In the budget they're not telling us some of the most basic questions that make up these numbers. Like what is the daily parking? What is the valet parking. What is the lease revenue? It's all been lumped together and here is the economic incentives reserve fund, with the domain and the friday night life, lump sum -- this is a 1300 page budget and you can't tell us what they are? Well, yeah, I had to go to open records to get the information. I had an open records request to get the information that should have been obvious in the first place. So stop doing that, please. Thank you.

mayor pro tem? hang on just a second. Brian, I actually would like to request that you email those two presentations to me because I want to look through them further. You were going through them quickly. I think there's compelling information. I agree that the market has substantially changed from the time we made projections for any five years ago, and those are things we're going to have to contemplate in the future. Council member spelman? that's exactly where I was going. If you could send that to all of us and we could see where we're going.

I'll send it by email. thank you, brian. The next speaker up is lori renteria. Hi, lori, you have three minutes.

Good evening, thank you for the opportunity to speak. I am council member cole's appointee on the community court and we desperately need those two case managers. If we're going to get back to doing what we want to do, which is help the 200 frequent fliers, the ones that are costing us a whole lot of money in police, hospital, er visits, one person cannot handle 200 people. We need more than two. We can't do without two. And I agree with stuart. You know, it just seems like it took us years to get a housing bond. I was a coordinator for the first housing bond way back in 1980 something. We finally got the home bonds passed, the go bonds, and now since there's those funds left we're not putting the money that we need in the trust fund. So we need to make those investments. Council has already dedicated what's left of the go bonds. We don't know if we're going to be able to have another bond for housing. So don't do us in. I mean, the chotos are scrambling now because a lot of them were counting on that 18 million that you've taken a big chunk to put to supported housing, and I'm very thankful. I mean, this council is my champion. You know, we've never seen such a commitment to serve people 30% and below. So I would suggest you take a look at all the programs that they're spending, because the city has a terrible habit of doing 80% mfi wros our chotos are serving people at 60%. So I'm about serving the greatest good for the

greatest number, and in these tough times we need to KEEP THOSE MFIs AS LOW AS Possible and foundation communities is my favorite nonprofit because they serve single homeless people in SROs. So, you know, they're the best. Work with them, especially on that public support of housing money. And for the cops, you know, I'm a big community policer, and we have just seen a terrible problem with our district reps, which is really the key in why my neighborhood has a better relationship with the police department, and I'm an east cedar. It's because of the dr. The lack of officers are PULLING THE DRs OUT OF THE Neighborhoods to do patrol and to do other things. So please keep us fully forced. thank you, lori. Next speaker is sabino renteria. Welcome, sabino.

Mayor, city council, i want to thank you for your earlier vote on item 33. East austin and the citizens of austin really appreciate that vote. I'm here to support fully funding the trust fund. I mean, the trust fund has been one of the most successful programs that we've had helping the affordable housing. We need to keep that funding, even if we need to look for, you know, funds that even comes from the general fund. I know that there's funding that's going to be left over from the holly good neighbor program. We should really look into putting some of those funds into the trust fund, because it really goes -- it gives you the . Please take that in consideration. Also, one of the biggest issues that I have on the cdc when I was the chair and I served 11 years on that commission, was the million center. Why are we in the business of running an amusement entertainment business that's not making any funds. We're paying over three-quarter million dollars to keep -- to pay back our loan on this facility. Really, we should really look into either selling it, off the fund and using that money for affordable housing. Thank you. thank you, sabino. jennifer McFell. You're our next speaker. Welcome, jennifer.

Thank you, I'm jennifer macphail en, I'm with adapt texas. I'll be brief tonight. You have things to do. I do too. Anyway, we have serious concerns about the budget for sidewalks. It's our understanding that funding has remained at the same level, at least that's what we've been told verbally, but when you look at the budget or what I saw in the internet form of the budget, I couldn't find specifics that actually said that. I know that you have the transportation fund available, but it's -- in the budget that's on-line it specifically said that there was reduction in the transportation user fee. It wasn't really clear how much is dedicated to sidewalks, and there's some cip projects but not a lot of information about the specific funding in those projects as well. The current level of funding for ada improvements in sidewalks is \$5 million, and then you have another million point something or other in the bond, and we want to maintain those levels because the work stoppage in infrastructure projects is devastating to the program, even though it may not appear that way. We -- back in the old days when bruce todd was mayor, there was a work stoppage in ada projects because they wanted to beautify the driscoll, and we felt the effects of that for many years to come. Infrastructure is very important to everyone in the city, and when I can move around safely I'm able to contribute to the tax base more and doing a variety of very beneficial ways to the community. I am active, and in being active I have to make a choice of whether I want to be safe or whether I want to be active, and that we believe is unfair. I had to get oncoming traffic today on the way to city hall because of construction. I understand that the sidewalks are going to be in better shape when they get done and those are the things you have to do if you want to be a participant in society and you have a disability. But it's a good-faith relationship between you and the disability community if you actually make an effort to provide accessibility. No one believes in the infrastructure ferry. There are no -- fairy. There are no easy ways to do these projects, but if you make a real concerted effort of at least \$6 million

this year, then that would be a good-faith effort. Anything less is an insult, and to briefly move on to housing, we also support the housing trust fund. Any additional funds that you can have, and now the trust fund is going to be available to people with disabilities because most of us are low income and most of us are not just below 30%. Most of us are just about 15% of the median family income, so it's lower than the average low income person. And then just one last brief comment. We were glad to see that in the supportive housing recommendations that has moved to an effort to say that the supportive housing services would be optional for people. That's a good thing. One size does not fit all, but in keeping with that theme, we all need to say that also if you spend all local dollars on supportive housing, you're not going to meet the need of every very low income person in the city. There are a variety of needs for very low income people, and that includes those of us that I mentioned that were at 15% and below. Thank you. thank you jennifer.

Mayor.

Mayor pro tem?

The question you raised about how much did we spend on sidewalks and how much is the budget, that's something I'll certainly submit as a budget question and I'm sure we'll get that answer. I think that's something we should all take a look at carefully.

Thank you, I was assuming that -- hopefully a lot of good information in the budget that I just didn't see, and I just wanted to bring up the question formally so that we could, you know, get down to. I appreciate that. And sometimes there's money in different pots, so it takes somebody that really knows what they're doing.

Yeah infrastructure money and they're small and when you put them all together you can do some good things, but we want to make sure they're spent in the -- we'll check that. Thank you.

-- Beneficial way. Thank you. thank you, jennifer. Next speaker is nelson peace.

He had to go.

He was here. What about charles popman? Welcome, charles, you have three minutes.

Thank you, mayor pro tem, council. I am here to again advocate for the poorest of the poor, our elderly homeowners, disabled, that are below 30% mfi. I agree with stuart's comments that the housing trust fund should be funded and should be directed for home repair. It is the most effective use of government dollars and affordable housing at the current level of \$10,000 per home we're able to keep a safe home to retrofit that house to where it is weatherizable, if that's a correct term, that we can keep these people safe, we can put a roof over their head, we can keep them from degrading and save them from a health problem, save them from financial troubles. It is the most effective way of accomplishing this. And so if you can fund the housing trust fund again to augment the money that's being put in by go bond, we can do much more at \$10,000 a home than we can do on a -- do a lot. It won't take as much money to build a

home, it takes 45 to \$75,000 a house to build affordable rental housing for low income people that costs 75 to \$80,000. So for \$10,000 we're getting a lot. And what we need is your help. We have the coalition collaborating. We are stretching every dollar to the nth degree, we need your help, and the more you can fund us the better off we'll be and the better off the city will be. Thank you as you're trying to find dollars to help and to help everybody. I'm here to help the people that are not here advocating for themselves. Thank you.

Thank you, charles.

Cole: thank you. rebecca, i wanted to ask you a question if I could. I don't mean to put you on the spot. I know we kicked off a lot of the housing requests from the holly good neighbor fund, but do you happen to know how much unclaimed of the allocated dollars this year is still there?

For just holly?

Just holly.

Oh, we just had a spurt of production in the holly program so I don't want to give any inaccurate information. I can probably turn some accurate information over to you tomorrow but I don't have those numbers offhand. but we do have potentially a couple hundred, if not 300,000 in unclaimed --

I believe so, yes. so would it take council action at the end of the year if we run the program and we still have funds available, it would take council action to transfer funds to the housing trust fund?

Administratively the program is obviously built around the guidelines. I'd have to go back and look at resolutions or an ordinance that mand how the austin energy funds were transferred, but from an administrative perspective it would probably just take moving it from one program to another in the housing department. But there may be something else that dictates that before we could administratively do it.

Martinez: okay. Well, I want to just explore that a little bit further with you.

Okay, we can follow up with that.

As we get towards the end of the cycle, if we'll have funds available that were actually dedicated for housing, one of the ways to preserve that they actually go to housing would be to consider moving it to the housing trust fund.

Okay. We'll definitely follow up.

Thank you. The next speaker is mr. william betz. Welcome, william. You have three minutes.

to texas and I remember one of the first times I was here was over the budget on the sidewalk. You-all wanted to cut it. We said keep it at \$5 million. This was a couple years ago. And talking about this bond

on the . I was here, I signed up. Actually -- they want to use all the money, what i understand is for the homeless, and I used to be homeless. I mean, I did it -- I used john's bridge while I was getting my knee operation and going to acc. And I stepped up the ladder by going to a different shelter -- I mean climb the ladder and get to that apartment. I live on \$9,000 a year. I have plenty of money. You know, I think a lot of people, overpaid, like the police budget they were talking about. All these good times everybody is getting these budget raises but now we're falling back on the bad times and they're talking about cutting and everything. What we -- last time you-all was -- you did something for the sidewalk, you gave 5 million for the sidewalk, but that was helping us with capital metro, because capital metro is putting money in fixing the bus stops, because this chair won't even go around the bus stops, the old bus stops, they're going to widen every bus stop because they were amazed in one little stand, with the little shelter thing and now they got to add concrete all the way around them because most wheelchairs can't get around them. They're doing a lot of good work, but we need the money for sidewalks, and we can't put all the money in one housing thing. I support some money for the homeless and getting them off the street. That would help a lot, and the program she said, when i was here and heard the program it sounded great, but I know that -- how many people do you know go to dinner at your house and can't get in with their wheelchair. That's what I asked? Do you --

no --

well, the last time one person said yes, and another person said I can get you in there. Me too. If I'm desperate I'll do anything.

I live in a fully accessible home with the outlets lowered and the plugs raised.

The person said the reason they had it because they moved in a house because it was already set up accessible. You need to spend the money, for rent, to be able to get in a house, affordable accessible integrated housing is what that stands for and the public sidewalks, work on capital metro, please don't cut nothing. If you can have more it would be great but at least stay the same 5 million that was pledged, and the bond, waller creek, I know public housing downtown, you saw the ut boat house and the housing, oh, no, they all go together, build a high rise. And that would be the waller creek money going in, tax funds, because already -- all three properties go as one. thank you, mr. betz. The last speaker signed up on the budget public hearing is mr. ted rowe.

Sir, you have three minutes. Thank you, mayor pro tem, council, thanks for staying here so late. You guys are warriors for listening to us. I'm here on behalf of the housing trust fund and to support that measure to add to that budget so that we can continue to make -- to have the impact that we've already started on those \$10,000 per house. Once -- back up just a moment. With the housing repair coalition, this is a model that's not seen anywhere in the nation. When we started looking at other places that did this, we couldn't find any, and we know that with the housing repair coalition we can have an impact on this community. We can continue to have an impact on this community with low income housing and retrofitting and having these homes weatherization ready for other -- for other programs to come in and do that. I work with american youthworks, a nonprofit organization, and we, as many of you know who have worked in the community on the east side building energy efficient homes for many years, and what

I want to emphasize is not only with this housing trust fund dollars would it impact the existing housing stock, but it would impact these at risk youth that are currently attending american youthworks. It would provide job skills. It would provide future minority-owned businesses, entrepreneurs in the field. It would provide -- it would provide a -- look at my notes here. Not only would it provide the future business owners, but the return on investment for the tax base as with the casa verde homes built on the east side, it would continue to provide a tax base for the city with the houses that would be -- that would be retrofitted with the housing trust fund dollars. It would also see cut down with some of the other homes, it would cut down on law enforcement and other services, because one of the biggest things that happens in these homes is that people are living in unsafe homes. They live at carbon monoxide levels that have harmful, they have need for help with medical assistance, they're safer homes so they need less city dollars. So an investment of \$10,000 per house with an increased budget hopefully with the housing trust fund, you can have a lot better roi on the dollars that are invested. Please look at those not only -- not only continuing that funding but hopefully increasing the housing trust fund dollars to help the housing repair coalition have a bigger impact on the city and the existing housing stock than we've already had, we continue building that capacity and helping our community as we already have. Thank you.

Martinez: thank you, ted. Those are all the speakers signed up. Is there anyone that would like to give public testimony on the proposed budget? Hearing and seeing none, council the continue to receive public comment on the proposed budget on august 26, 2010 and we'll vote to adopt the budget for fiscal year 2010-2011 at the annual budget meetings here at the austin city council chambers. These meetings will begin at on monday, september 13, 2010, tuesday, september 14, 2010, and wednesday september 15, 2010. Will now entertain a motion to recess today's public portion of the public session.

So moved.

Motion by council member shade, second by council member ce. All in favor please say aye.

Aye. those opposed? That motion carries unanimously.

Mayor leffingwell: okay. That takes us to item 63, which is to conduct a public hearing on an appeal by sabino and lori renteria, planning commission decision to approve a conditional use site plan for a project located at 1711 east cesar chavez. Before we open the hearing, are there any requests for postponement or issues of standing that anyone would like to raise? Hearing none, we'll begin with the report from the city staff.

Good evening, mayor and council, I'm george zack lack with the department of planning and development review. The applicant is requesting approval of the addition of an automotive washing use to a property currently occupied by transitional housing and a treatment facility at 1711 east cesar chavez. The property is zoned general commercial services mixed use, cs-mu-co-np and cs-1-mu-co-np. The east cesar chavez neighborhood plan specified that automotive washing is conditional use in these districts, which requires approval of the site plan by the planning commission. The proposed hand washing of cars would be located adjacent to the building in the existing parking lot. No modifications to the building or impervious cover is proposed, but the owner does intend to provide a containment berm, a sediment trap

and sump -- sediment trap and sump pump to dispose of the water. If something else is requested it must be approved. The owner plans to install an awning over the car wash area. The conditional use permit was approved unanimously by the planning commission on may 11, 2010 on consent. The appellants were not present at the time the commission took action but arrived at the meeting later in the evening after the commission had already approved the conditional use permit. The appeal was filed on behalf of the united east austin coalition on the basis that the push-up foundation has code violations and continued operations without making the required improvements. The staff recommends denial of the appeal because denial of the conditional use permits have been met and although the owner was cited for code violations in the past the conditional use plment is a city requirement necessary for addressing the violations. For the past six months the applicant has been operating under a temporary use permit pending the approval of the conditional use permit. However, that temporary permit expired last tuesday, august the 17th. Council's options are to uphold the commission's decision and deny the appeal, reverse the commission's decision and approve the appeal, or to modify the commission's decision. Staff from the law partment and the code compliance department are available if you have any questions about the city's enforcement action. I'd like to answer any questions. Questi questi ons? If not, we'll hear a presentation by the appellant, and and you will have up to ten minutes, if you need it.

Thank you, mayor, I'm lorri serfknack and I'm a secretary of united east austin. Thank you for agreeing that we are an interested party. This is just really a simple case of a person -- of a business that was told what improvements they need to make before they could do hand car washing. This six-month temporary thing, this is going way back to like 2005, 2006. They've been cited many years for operating a car wash without the detention and the wastewater and all the provisions needed. So really, we're asking you to deny this conditional use permit until the operator makes the improvements. He needs to show some good faith. I'm passing photos down. He has been operating -- one of the criteria is he have a canopy. A canopy costs \$200. Why hasn't he made any attempt to meet any of the conditions? He's been washing cars -- it expired tuesday. He's still washing cars. You know, all that wastewater is going right into town lake, and another provision is, they're not supposed to wash cars, they have to be 25 feet back from the fence because this property backs up right to single-family homes. And he's still washing cars right up against the fence. He has no intentions -- this is a bad actor with a long history of noncompliance, with all kinds of code violations. So I ask you, if you not going to deny the conditional use because you've been intimidated by all the race baiting and all the tactics that this operator has put on me personally and the cesar chavez team additionally, if you're intimidated and you feel like you need to reward this bad actor, who has already -- who is already suing the city for other code compliance and building standards issues dating back five or six years, if you must do that, then I ask you to order the code compliance department to cease and desist, no more car washing until those conditions were met. So, you know, I understand where you're at. I've never run for council because I'd hate to have to make these kinds of decisions. But I'm asking you, let's hold him to the law. He's already suing the city, and tell him, order -- code compliance inspectors have said, somebody from higher up, and I'm not talking about god, has told them not to issue a stop-work. And that isn't right, and i don't think you should reward him with a conditional use permit when he has thousands and thousands of dollars of fines and court costs and has flaunted code compliance and the building standards commission. But if you want to do it, go ahead. Just please put a stop-work, no more car washing until those improvements are made. Thank you.

Yes, my name is sabino, and I'm chair of the east austin united coalition. thank you. Sabino. Just a minute. We're now hearing -- you'll be next -- from persons who are supporting the appeal. That's you. And you have someone donating time to you? Linda team? Lynn team? So you have six minutes.

Thank you, mayor. I won't take that much. I'm also past chair of the community development commission and cdc. And, you know, I used to be -- I used to serve on the house, it used to be a halfway house, all the way until '98 when we told the state that we weren't going to take patients that had full-blown aids and sex offenders. This is with a neighborhood halfway house. They told us that if we didn't they were going to cancel our contract, which they did. So I'm very familiar with this property that push-up is at. And I know that at that time in 1998, that the city through the cdc helped them get the contract. The owner has a contract with the city to provide affordable housing at this site until his affordability period expired. Not to operate a car wash. The council should consider his request for this conditional use permit after he no longer has a legal obligation to provide affordable housing. I ask that affordable housing meet all city codes and federal accessibility standards, like he was supposed to from the very beginning. Please direct the city manager to make sure that the housing code and section 504 for accessibility is enforced before you give him this conditional use. I am very concerned because last month on the final day of the hillside concert at ab cantu rec center, i passed by there, and i actually saw one of the workers there dump their so-called clean wash that they hand washed from their car into the drain there. It just -- it just disgusts lake cleaned. And this is our drinking water. This is the drinking water om downstream. I have a big drainage down at the end of co mile where all the drain empties into town lake. You can go down there after a heavy rain and look at all the trash and how dark and filthy that water is, draining into town lake, and if we don't do something and we get -- start giving conditional use to all these types of services without strictly enforcing the code, then we might as well just stop trying to save town lake. Thank you. thank you. Diona casta nada. She's not here. Lorri renteria is signed up but she's spoken as the appellate ant. So now we will go to a presentation by the respondent, and who represents the respondent? Are you fin ogbodua?

Yes, sir.

So you have up to ten minutes to make your presentation.

Good evening, mayor leffingwell, mayor pro tem mike martin and council -- mike martinez and council mbers. I just want to speak on the information on the appeal. I would like to say that the car wash has been there since 1999. I personally was also a member of contact team, walked with lori renteria in east cesar chavez neighborhood plan. At that particular time nobody ever mentioned because car wash wasn't a that it was a problem within the neighborhood. It was only really in 2005, but I'm here to show you what we have done. Nobody would like to spend \$35,000 for nothing not to be in compliance. We met with the contact team three times. We met with the contact team three times about the car wash when we were about going to the planning commission. We met with them, march 4, we met with them march 17, we also met with them april 24. We went before the planning commission, it was passed. We did everything that we are asked to do, to be in compliance. And we met our requirements. Staff came to the facility, they looked. Everything they told us to do, we did that. I'm not the staff, I'm not an inspector. Push-up has no code violation. We met every requirement. We have resolved every issue that we have. We have no

code violation of any type. If anybody said that we do, I want to know about it because we have the document to substantiate that. So we did everything that we have to do. If you look at the is saying that we are in violation of city code. We are not. And then the appellant is saying that I did not do anything about the drainage. Mayor, I could not do that. You have to permit to do anything. If I have to apply, you have to give me permit to do any repairs or anything that they want me to do. I cannot do it on my own. That is the responsibility of the city. And we have done everything that we know how to do. That is why I hired him. He's an engineer, worked for the city nine years and has his working for the city for 30 years. So he has 39 years' experience, and we worked very closely with the staff doing everything that the city asked us to do. So I'm here, actually to deny the appeal, because we have done everything that we know how to do. I am not here to discuss what the appellant is bringing. When I come to you I come to you with facts. When I come to any of you, i come to you with facts. You know, so this is something that is very, very important for the community. We have been there for years, and we are asking the council to support us in what we do. Thank you. thank you.

Mayor, a question? council member spelman. sir, I'm looking at a site plan dated the 9th of february this year. And I don't know whether the question is for you or for your engineer. I just want to ask you a couple questions about it. I'm looking at the site plan. Did you prepare the site plan?

Yes, sir, my name is carl conley with conley engineering, yes, we did. connelly, looking at several -- several pieces of this. There's detail for a sediment trap, for a sum, for containment berm and for a handicap ramp.

That's correct. have those things been built?

They have not. We can't actuallyonstruct them without a permit. A permit has to be issued after the conditional uses allowed or approved on the property, and these plans have been prepared. We reviewed them with industrial waste department and upon approval of the conditional use, we'll contract to have these minor improvements made and then have them come out and make the appropriate inspections.

Spelman: okay. So in order to build the stuff you need the conditional use in hand first. How long after you get a cup will you be able to go these things installed? I agree with you they look to be pretty minor.

I think there's been discussions with the contractors to put them in. Some of the improvements can be put in within a couple of weeks. An awning has to be ordered. I think a previous comment about a \$200 awning, I think the awning they're looking at is more in the neighborhood of 2 to \$3,000, it needs to be more substantial that will handle the weather and not just be blown away. So yeah, it's -- everything is ready to go to make these improvements as soon as we possibly can.

The charge was made that you wouldn't be able to dispose properly of wastewater on the site without these improvements. Is that consistent with your understanding?

Again, we've met with industrial waste. The drain that's on the property does not drain into town lake. It drains directly into the city waste system. It's a sump that was left over from a previous use on the

property, and again we've met with industrial waste to modify that to be acceptable for the car wash facilities, including additional sediment trap in the vicinity of where the cars are actually being washed.

councilmember, we have gone through a lot. Mind you that the city got this based on information that is not accurate. When we come to you, we come to you with facts. We are really struggling. It's very, very hard for us. We can do this. This has been going on for years. It has not caused any problem. And we have worked with the city when they came. We have been working with the city on this. The does not go outside and we said we can go whatever it takes for us to be in compliance. That's our livelihood, you know. That's how we make our money, to keep the program going on those who pay in the clients. So it will hurt us very, very bad. Pell spell it sounds --

Spelman: It sounded like it will take three months to get in compliengs after a co is issued, and it doesn't sound like you will be able to wash cars. This is premature. I'm getting discussion and i wanted to ask the question about how long it would take after the stuff was installed and whether it was installed yet.

We will do it as soon as possible.

Spelman: I believe you and I appreciate it.

Mayor Leffingwell: Councilmember shade.

Shade: I have a question just for clarification. I thought that's what was already what the temporary permit said in the first place. What am I missing? There have been how many months that have passed?

Six.

Shade: So now why would it work in three months if we were to do that? I don't get it.

The conditional use that he's been -- temporary conditional use that he's been operating allowed him to continue doing what he was doing before in order to get this to a point where a conditional use permit could be allowed a full conditional use permit would be allowed and approved. So only once the conditional use full conditional use permit is approved can we make the improvements that we're talking about here. So it's kind of -- what comes first, the chicken or the elg, the improvements or the conditional use permit? These plans have been prepared for quite some time. They've been operating under the conditional use permit. If they -- if the appeal hadn't been filed, we would have probably constructed these improvements several weeks ago. We're just waiting for this use to go ahead and construct the improvements. If the improvements were constructed and the conditional use was not allowed, then we would have to just turn around and take them back out again.

Shade: So because the appeal was filed you were unable to make the change that was required by the temporary permit? Is that what you're saying?

It's my understanding that the temporary permit just allowed them to continue doing their car wash. The temporary permit didn't allow them to construct permanent improvements.

Mayor Leffingwell: Mayor pro tem. Maria montoya hohenstein i zapalac what the temporary permit actually allows and disallows or what requirements were stipulate understand that temporary permit. The temporary permit was -- the car wash was allowed to operate three and a half days per week, which is 28 hours a week, with the condition that they obtain all permits necessary to operate the business and be subject to the city of austin water restrictions. The permit was limited to six months and may not be renewed. And it was approved on february the 17th, 2010. So six monthwould be august 17th.

Martinez: So george, if the temporary permit says they're allowed three and a half days a week, 28 hours max, who enforces that?

Code compliance would enforce that on a complaint basis.

Martinez: And if you said they had to follow water restrictions, aren't water restrictions two days a week for washing vehicles?

I'm not certain. I believe there is a representative from austin water utility here.

Not for mar cashes. You're talking about outdoor irrigation restrictions. Car washes would come under different rules.

Martinez: I will still believe it's only on your watering days if you're hand washing a vehicle, but I'll check into that.

Martinez: But the conditions that were required have all of those conditions been met?

You mean for the temporary?

I'm asking george.

I think I would like to defer to the code compliance section on that to see if they've received any complaints. They would be the ones that would enforce any violations.

Martinez: Okay. I'll wait to hear from them. Thank you, mayor.

May I say that we met all the requirements.

Cole: Mayor, I have questions of george.

Mayor Leffingwell: Just a minute. Are you finished? Councilmember cole.

Cole: George, I'm trying to understand the difference between the conditional use permit and the temporary permit once it's granted. And what the applicant would actually have to do pursuant to their plan.

The temporary permit was issued as a stopgap measure to allow them time to obtain the permanent conditional use permit. The conditional use permit is necessary to authorize the car wash on the site because it is a conditional use. So they had to file a site plan showing how they would bring it into compliance with the code. And as the engineer mentioned, they would construct a sump pump or upgrade the sump pump, build a berm and a detention basin and otherwise upgrade the facilities on the site to bring them into full compliance. They do have to get approval of the conditional use before they can proceed to get permits to do the construction on the site.

Cole: And you have recommended that -- or the staff has recommended -- I'm assuming that's mostly you -- that the appeal be denied and that they move forward. So can you explain why you have made that recommendation?

Yes. Because the conditional use permit is necessary to authorize the use of the car wash on the site and to make it possible to bring it into full compliance by constructing the additional improvements that are shown on the site plan.

Cole: Okay. Thank you, mayor.

Mayor Leffingwell: Councilmember Riley.

Riley: George, I want to make sure I understand. You're saying under the temporary use permit they didn't have the authority to do the work that was necessary to make the improvements that would be required for -- permanently for the car wash?

That's correct.

Riley: So they did not have the ability to do that. They have to have the conditional use permit in order to make those improvements.

That's correct.

Riley: Then I don't understand the rationale for the temporary use permit. What would the thinking behind it? I thought -- I thought what you were saying is with the temporary use permit they would be able to get their act together and get everything in place so that they could then get the conditional use permit, but that's not the case. What was the point of the temporary use permit?

That was the case. The temporary use permit was to enable them -- to give them six months, which would normally be enough time to obtain the conditional use so that the permanent improvements could be made on the site. And in fact the conditional use was approved by the planning commission in May, which

would have been within the six-month period, however, because of the appeal, it has dragged out another three months or so.

Riley: So the process was that you give them a temporary use permit and while they're operating they go about securing the conditional use permit and then once they get the conditional use permit, they make the improvements necessary to be legal.

Yes, that's correct.

Riley: What is the -- what's the mechanism for checking -- if they get a conditional use permit, what's the mechanism for checking back to make sure that they've done the improvements necessary for them to operate legally as a car wash?

The code compliance section has been tracking this case and it's definitely on their radar, so they would follow up if the applicant has been allowed to continue on an interim basis pending the submittal and approval of this conditional use permit. So the code compliant section will follow through to make sure that the conditions are met and --

Riley: But suppose they get a conditional use permit and three months go by and they haven't done anything to put the infrastructure in place in order to operate legally as a car wash, then does their conditional use permit get revoked?

Constituent could start enforcement action at this time to shut the operation down and to impose fines as well.

Riley: So they would be red tagged and they couldn't operate as a car wash and they could be shut down.

Yes.

Riley: How much time would they be allowed before they would be red tagged?

I would have to defer to the code compliance representatives on that.

Riley: Okay. Thanks.

Mayor Leffingwell: Anything else? We'll go to comments by persons opposing the appeal. Limitation of three minutes per person with the exception of donation of time is allowed. And the first speaker is gavino fernandez. You have some donors.

Mayor Leffingwell: I'll call your names. Alyssa montoya. Okay. Melanieer win. -- Melanie irwin. Barbara goodin. Anthony williams. No anthony williams. So gavino, you have 12 minutes.

Thank you, council, for hearing our case in this late evening. I do want to request that deny the appeal. Like the record shows, it was approved by the planning commission in may. Had the appeal not been filed

or the number of council meetings been cancelled between now and then, all of these improvements would have been in place as of today. The neighborhood is in support of this conditional use permit being allocated. We are -- pushup is making every effort to come into compliance. As you well know when the cesar chavez neighborhood plan was adopted in 2000, there were a lot of businesses because of the adoption that are non-compliant. We had two bus terminals on cesar chavez that were non-compliant because of the adoption of the neighborhood plan. So we've asked this council to do a study on cesar chavez corridor so that we can not have to do each piece one by one. That suggestion has not been recognized by this council, so again we come before you on a case-by-case basis. The use and the purpose of the car wash is also a part of the curriculum of the program where it offers the clients an opportunity to work, an opportunity to begin that process and to come back into society and be financially independent. This is a program that caters to human beings that many people throughout this community may not even want to deal with until they find themselves in a situation where they did also make a mistake. This is a human being issue. This is an issue that, like pushup has mentioned, has been going on for the last 10 years. It was part of the contact team. Ben did reach out to the neighborhood association. Ben did reach out to the contact team. The contact team, according to this council, has more voice than the neighborhood association. The contact team voted six-three short of approving the conditional use permit, they decided to vote six-three to take no action in order to maintain unity within their group. But there was a motion made to support the conditional use permit. So the contact team has spoken and does not oppose the ongoing practice of having a car wash, a hand and sponge car wash, at this facility. If you look at it from another point, the neighbors are accustomed to this business in the neighborhood. If you look at the water, the use of water, the sponge and hand formula of washing a car will save much more water than if you use a hose that's running and you're washing your car at your home. So that is another plus factor in this is that it also saves water. And mayor, you're a real strong advocate of saving water throughout this whole city. So this contributes to that whole effort from that perspective. People, the contact team was invited to come out to the site to visit. If they had any questions. The neighborhood was asked to come out. And they all had the opportunity to come in and go to the grounds, go to the facility, and witness the activity that is going on there right now. So I think in good faith this business has come to comply with what is necessary in order to operate. And the other factor that's very, very important here is that this is -- this use is allowed under this zoning with the conditional use permit. And I want to reemphasize that. It is allowed with obtaining a conditional use permit. And one of the -- and one of the reasons for a conditional use permit is so that properties adjacent to businesses that are asking for conditional use permits can chime in and they have, and they have approved and they concur. And we ask you that as a government that you approve this conditional use permit because it will benefit not only the business and the class, but the quality of life in our neighborhood. And thank you very much for your time.

Mayor Leffingwell: Thank you. next speaker is actually ben, but you've already spoken as the appellant. But you have several people donating time who would be eligible to speak. Maurice davis. Maurice? Mary cain. Do you want to speak? James jones? No speaking?

Mayor Leffingwell: I don't want to twist your arm. That's fine. Three minutes.

Yeah. Again, good evening to everybody. I'm actually Rick Jones. That's my nickname. Anyway, I want to speak on behalf of the neighborhood and all the guys that work the car wash. The neighborhood comes in there with smiling faces. They pull in and they -- it's like when I was a kid washing cars or something. They're all happy and just kicked back and watch everybody just have a good time washing cars. And giving back to afford of working again. And so I think it's a really good thing that this is going as it is. It fits into the neighborhood. And even the people outside of the neighborhood come by. It's a main corridor right to the car wash and I think it just works out great. Thank you.

Mayor Leffingwell: Thank you. Next is Marshall Talfer. And you have folks donating to you. Rick Jones. So you were -- I had called James Jones before. Is James Jones in the --

Mayor Leffingwell: See, this looks very suspicious. You signed up as James Jones and also as Rick Jones. Okay. Charles Davis? Charles, you have three minutes.

Good evening. Basically what I want to say is the car wash, I'm a client there. The car wash put structure in my life because you have to get up in the morning. It's teaching us how to work with other individuals in the program. And work together to accomplish a goal, which is to please the -- please the customer that comes in. Me myself personally, it's teaching me a lot about work ethics and working with other individuals in the that's what I have to say.

Mayor Leffingwell: Thank you. Clifton Johnson? Not here. Pam Johnson. Pam Johnson. Okay. Next speaker against is -- this may not be correct spelling on here. It says Mevin Manta. I don't see Mevin. Lewis Holly. James -- oh, Lewis is going -- you're Lewis? Okay. You have three minutes.

City Council people, I'm the supervisor of the car wash. And I want to enlighten you all on the car wash a little bit. The car wash was designed to get the people back in the work mode, like one of the clients said. We have homeless folks come there, people holding the signs that had not been working for years. The car wash is set up to get them back in the work mode. How can we send them to work after we clean them up and they haven't been working, sitting around doing nothing. Treets has beat most of our clients up. The streets is hard. They come there and we work with them. I'm the supervisor just by title. Because if you ever come there, you will see me right out there with them because once I come through the program from the penitentiary. And I wonder where would I have been if it hadn't been for Pushup. First I got a job at Easter Seals. We need more places like Pushup and Easter Seals. Because they give an ex-offender a chance to work and give back -- get back their lives together. It's a whole lot of people come from the penitentiary just like me, wants to work and can't get a job. I'm going to ask you a question. If you get out of the penitentiary and you look for a job for months and you can't get a job, what is left for you to do? I want to enlighten you on the car wash a little bit here. We do not have a lot of cars. We are number one on the totem pole, the bottom of cars. Friday and Saturdays is our best days. Last Saturday we had 25 cars. That Friday we had 14 cars. Today when I left we had five cars. We don't have a lot of cars. But the cars that we have we put everything into. Like I said, we are the lowest on the totem pole. We're just a drop in the bucket compared to other car washes in town. 100, 200, 300 On a Saturday. We do 25. The soap we use is dish washing liquid. That's the soap we use. That's all.

Mayor Leffingwell: Lewis, that means your time's up.

I didn't have nothing donated?

Time went fast, didn't it? He did good. all right. James wallace? Don't see james. Joe quintero. Not here? Vincent ballard. Lewis mathis. James wallace again. He's not here. So those are all the speakers that we have signed up opposing the appeal. So now we'll hear three minutes of rebuttal by the apell lent.

It really pulls at your heart strings, but we've got to make these people follow the rules. They haven't abided by their temporary permit. They operate six days a week. They've been on kzi radio almost every friday. In fact, do you know what they said on kazri radio, they asked all the listeners to not only bring their car washes, they asked the listeners to lobby city council and will be by the county commissioners, and if they could get a letter of intent or better yet a signed contract, they could go to the bank and get a loan to do a genie car wash, a high-tech, state-of-the-art car wash. The cesar chavez team had a plan, and that was to have a mixed use walkable neighborhood. We were trying to -- there's only four things we didn't want on the street. Pawn shops, more bars, strip clubs, and auto-related services. The team didn't support the action. They took no action because we had 40 guys packing the library. It pulls at the strings. They haven't abided by the six-month temporary because they operate it six days a week. They were supposed to do three days a week. Something fishy is going on with code compliance that they're not willing to enforce the temporary or take any action to do a cease and desist or red tag. The code compliance issues on the car wash go back to 2005. It's not just now. This guy has had -- I'm terrible at math. Since 2005 that is five years to go ahead and get his conditional use permit. Somebody is pulling strings for this guy. And letting him continue to pollute town lake. It's time to take action, it's time to tell them, you know, fish or cut bait and get those improvements made. Do not extend the temporary. Let's see if he can come up and come through. I doubt he will. He told the -- east austin environmental initiative were the first people we called because they used to not even have handles on the hoses and the water just drained down the gutters. Now you don't see water as much, but they're operating six days a week from eight to eight, and you should be asking where's the money? This is a nonprofit. They're not even -- they've talked tonight about being a business. the contract you have with them doesn't say that they're supposed to be operating a car wash. They're supposed to be providing affordable housing and it's substandard and they have code violations, but that too --

thank you.

does not apply to a commercial car wash if in a bay. And then much more language. My question now to staff is does a tent canopy constitute a car wash bay? And if somebody were to file a code compliance complaint and say, this is not a bay during stage 2 water restrictions they would be limited to two days a week based on their address, from and from 7:00 p.m. to 10:00 a.m.

We've got a question on the table. Nobody is here to answer the question. well, I see the director of our code enforcement willie rhodes is here. I hope somebody could answer to the question.

Well, mayor pro tem, greg guernsey from the planning and development department. I will probably have to actually get back to you to be absolutely sure, but if the canopy was installed and it was operated, the car wash within that canopy area, that would probably end up being a car wash bay, because if you think of all the other car washes we have in the city, usually the quarter car washes you put in, you put five or six quarters in or whatever, those would qualify, and they're now much more than just a piece of tin over the roof and half open sides and they operate. Now, they do have industrial waste discharge permit because the water then drains down below the vehicle, and then it's filtered, and I think that's what's been suggested here tonight. Now, technically a temporary use permit has expired, and the negotiation that went on involved myself, the prosecutor office, code compliance, and it had been going on for several years. There has been litigation by the city against -- against ben, and there's questions about whether it was an accessory use or not and those failed in court, and it got down to the point late last year where we kind of sat down with the applicant and said, you need to comply. Willie's shop was shutting them down, and what we ended up doing as a compromise in working with the prosecutor's office, working with code compliance and my office, we basically ended up saying we'll give you a temporary use permit to operate for six more months with the understanding you're going to basically work with an engineer, which connelly to do, to draw up a set of plans and come to complete compliance with our code. If you fail on the conditional use permit, then that will be it. This issue is over, we're not going to discuss it anymore and the use must cease. So that's probably partly how we ended up here today. Jeff howard was the attorney that we were working with. I don't think he -- he was doing pro bono work but i think his work was only till the end of last year, and i don't know all the people i worked with in the prosecutor's office but i know willie and I discussed this as this was going on. So that's kind of how it's brought to you today. Basically that it has expired and part of the agreement we had was we would not extend it.

Martinez: thanks, greg. I think -- you know, I think this may not be the last time you visit this issue because I really do think if we start constituting what is traditionally known as a car wash bay, with which is a self-contained drainage system, it's covered, it's got walls -- if we start saying a canopy is now a bay, I think you're going to be challenged on that, because this is completely different than a car wash. It's a berm in a parking lot with a tent over the top. And I don't see how we stretch that into saying this is now a bay, because if you do, there's going to be a lot of folks wanting to have car wash bays in their parking lot, in my opinion. I totally agree that this is a very necry service that we have to help folks that need help, and i daresay this council does as much as they possibly can. The question here is about -- for me, the question to me is whether or not -- you know, we have folks that are willing to comply with the rules and regulations of the day. And I worked with mr. ogabadei since 2006. I even used to take my car and get washed there because I felt sympathetic to what they were trying to do. But over five -- four years now that, you know, I've been through this case in and out, nothing really has changed. No improvements have been made, and continue complaint after complaint has come. So I just -- I believe that there are some legitimate concerns by the appellants. They are, you know, the members who represent the actual boundaries of their neighborhood association, or their contact team area, and so I will be supporting the appellants and want to make a motion, mayor, to uphold the appeal. motion by the mayor pro tem to uphold the appeal. Is there a second? Second by council member shade, and you had a question a minute ago? All right. Motion and second on the table to uphold the appeal?

Martinez: yes.

Cole: mayor? council member cole. I too am sympathetic to the neighbors and have been involved with the push-up issue for many years and really do appreciate guernsey's recollection and testimony of just how hard the staff has worked to get this enterprise in compliance with our code. And also recognize the good work that they do for people who have had a criminal background. But evening that in this case we have landed upon a solid staff recommendation to allow them to go forward with a conditional use permit, and they have actually retained an engineer with plans and cannot move forward unless we approve that conditional use permit, which would involve denial of the appeal. So balancing those two interests, I am making a substitute motion that we follow the staff recommendation to deny the appeal. Substi substi tute motion by council member cole to deny the appeal. Is there a second? Second by council member spelman for purposes of discussion. Do you have discussion? george, help me out here. I want to be sure I got the sequence of events, at least recent sequence of events. We don't have to go back to 1999 or 2005 or '06. When was the temporary use permit issued?

It was issued on february the 17th of 2010.

Spelman: okay. February 17. The site plan was dated february 9 of 2010. So they put in the site plan. We issue a temporary use permit. At the moment we issued the temporary use permit couldn't they get permits to build the stuff in the site plan?

To build the additional facilities, the sediment -- the pump --

yeah.

No, they could not. They needed to get the site plan approved first.

Spelman: okay. Once the site plan has been approved and they got a temporary use permit in the can, they're operating somehow, could they then get permits to build this stuff?

Yes, once -- well, the permit was approved by the planning commission, but it's under appeal now so it cannot be released. the temporary permit or the full -- the full-time conditional use permit?

Yes, it had to be approved by the city council in this case because it is on appeal. they had a temporary use permit. They also have a site plan. If the site plan is approved, can they then build what's in the site plan under a temporary use permit, not a conditional use permit.

No, the temporary use permit has expired, so what is on the site plan is a permanent conditional use permit, and so once the site plan is approved, then the industrial waste permit can be applied for and any other permits that may be needed to implement what is on the site plan. so they have not had -- if I understand you properly, they have not had any opportunity to build this stuff and come into compliance with our code because they have not had a conditional use permit?

That's correct. The conditional use permit is necessary before the car wash use can be legitimized on the property and is required before any --

the temporary permit is not sufficient. They need a real conditional use permit approved by us.

Yes, that's correct. so if we approve a conditional use permit then they can go to the one-stop shop and get the necessary permits to build this stuff?

Yes.

Spelman: okay. And they will be in compliance even if they operate a car wash without this stuff for at least some time period until they build this. Is that accurate?

No, they were given a temporary use permit for six months, but that period has expired, so they -- they would not be able to operate under the temporary use --

spelman: okay. So they can't operate until this is built. Even if we give them the conditional use permit, they cannot operate a car wash until this stuff is built, right?

That's correct.

Spelman: okay. What form of enforcement do we have if they actually operate the car wash without actually building this stuff without getting through the punch list? How can we -- what can we do?

Then we could initiate legal action, and that could take the form of shutting down the operation and taking them to court, imposing fines.

Spelman: okay. Have we ever done this before?

Certainly, yes. we have taken --

for other uses. You mean for this particular use? for this particular use, yes.

I don't know the whole history of the enforcement action but I know that certain actions have been filed and have been taken up in the past. greg, do you want to shed some light? yes, we have actually shut this down before. We've taken them to court, and then they came back. And so -- and there were various appeals. As I mentioned, there was a claim made this was an accessory use. We didn't -- we said no. We took that to court. If they were to start up again I would end up calling willie at code compliance and then they would issue a notice of red tag and if they pursued without obeying that red tag we'd probably get a court order for a cease and desist, because technically right now what was negotiated last year was that this is a one-time temporary use to get them an opportunity one last time to bring this into compliance.

Spelman: okay. So if we were to issue a conditional use permit, there are going to be no cars washed on this site until they build this stuff out and until code, the inspectors -- I've forgotten where we put our inspectors. You put the -- not willie. willie has code enforce him. If they come into i McOFFICE TO GET THE Permits they need slowly we'll start going through that. But if they're operating they're operating in violation of our zoning regulations and we would be forced to take action against that activity.

Spelman: okay. So I know what I need to. Thank you. council member morrison. one more question, and I'm not sure who wants to answer this one, greg or george. Just back to the compromise that was reached that one more time there was going to be a contrary use permit. Was it contemplated that within those six months the conditional use permit would be approved and thus the site plan could be built and that was all supposed -- that was a deal that was all supposed to happen in six months? it was planned that the conditional use permit would run its course. We never said that it would be approved, because it could ultimately have been denied along that way.

Morrison: but the timing.

But the timing was such that it was to make an allowance for the conditional use permit to run its course.

Morrison: okay. Thank you.

Mayor? mayor pro tem? I just want to make -- just point out, even though the temporary use permit has expired, ogabudei answered council member spelman from the podium saying he would not be able to shut down his operations for the next three to six months while he tries to build a canopy or come into compliance because of financial difficulties. So even though the permit expired four days ago or whenever, they've still been washing cars. We just heard about the great days they had here recently, and they'll continue operating. I mean, they're not going to cease the operation, whether they build a canopy, a berm or a drain or not, they're going to continue washing cars. council member spelman? I think ogabedei would like to discuss this. Are you going to continue washing cars or stop washing cars?

Council member, you know, we -- we will comply. We will comply, but I want the council to understand, we could not do anything -- when they give us temporary permit, we had to go through this to apply for the conditional use permit. Then whatever then we have to fix that, and what were our -- once the conditional use permit was issued, we were waiting for to come out so we could fix that. So what I'm asking the council, I cannot going to wash car, because I'm telling you if it's ever important oh it is very important, this is how we sustain our clients. This is very, very, very important to us, maybe give us 30 days or 60 days. We have again washing cars there for about ten years and we won't be able to do that. That's what I'm appealing to the council. No, we comply with everything. I could not even do anything without because we have to apply for it and then you have to issue the permit before I could do anything. So I want the council to understand, we spent \$35,000 in order to be in compliance, and that money went down the drain. So we have done everything we know how. You are the government. You are -- whatever you tell me, that's what I'm going to do. But I want you to understand what we are doing in austin is very, very . It cost \$650 million to the problem because 5 billion the problem. You know, and these geese, when they come out, they don't have anybody to help them. This money is not coming to me. This money is to keep them going. And whatever when you call the contract -- ob adegei, we understand all of that. I believe you've answered the question.

Spelman: you did. Are you washing cars now, sir?

What? did you wash cars last weekend?

Yes, we did -- I didn't ask why. I just asked whether you had or not.

Yes.

Spelman: you did. Okay. And your temporary use permit had expired as of last weekend, is that correct?

Yes. so you said a few minutes ago that you were in full compliance but you're obviously not in full compliance if you're washing cars without a permit.

We were approved by the planning commission. We're approved by the planning commission, and the understanding, from what i got, is that because we're approved by the planning commission, we're going to continue washing cars until you decide. And nobody ever said that we should stop, because we're already approved before the temporary permit expired. Now, we are ready to comply because he has to get the permit and then we'll do whatever you want us to do. are you washing cars -- how many days a week are you washing cars, mr. obagadei?

We're washing -- according to planning commission, one to two a day.

Monday through saturday, so that is six days a week.

Yes, sir.

And your temporary use permit, that expired, so you do not have the authority to wash cars six days a week; is that correct? Hang on. George, does this guy have the authority to wash cars six days a week?

Not at this time, no. The permit -- the temporary permit expired on august 17, which is two days ago. so he does have the authority to wash cars three days a week, not six days a week, is that accurate?

No, he does not have a permit to wash any cars at this time.

So that's expired now, he can't wash any cars at all,.

Right.

Until he builds out the site plan, it's inspected, it's found to be in compliance and then he can start washing cars again; is that correct?

Correct. sir, I'm going to vote in favor of the conditional use permit but only if you tell me you aren't going to wash any cars until you've got this stuff built. If you can't tell me that in good faith I'm going to have to vote against --

we will do that. We will do that. Sphel spell we'll watch and make sure --

we are not going to do that. We're not going to wash the cars.

Spelman: thank you, sir.

Mayor leffingwell: mayor? council member cole? rhodes, I have made this motion and I've listened to my colleague's questions and I have heard the push-up foundation's ben, make his recommendation that he will not violate our codes again and I made this motion in good faith. And I'm now giving you the direction that if that does not happen with all deliberate speed, I expect you to close down this business, and I do not expect my colleagues to have to entertain this again.

Council member, we will be taking whatever action necessary if they are operating a car wash to shut it down, including turning off the water to this facility.

Cole: thank you.

Mayor leffingwell: okay. Mayor pro tem? I have another question. ogabadewu, I have a question for you. You say you will do whatever the government says for you to do, whatever this council decides?

Yes, sir. did you wash cars today?

Yes. the government told you you weren't allowed to wash cars today. Your temporary -- your temporary use permit expired two days ago. This is the order of the government. It said you cannot wash cars today, or yesterday, and you're telling me now you did.

May I see when we went to the planning commission and the planning commission approved it may 11. but who told you that because of what planning commission does you now can wash six days a week and do whatever you want? Planning commission is just a part of the process. It's the council that makes this decision. Whoever told you that gave you bad advice.

I'm not not the city. we have the city, and what I'm saying is you've repeatedly made commitments to me, also to this council, but you've also repeatedly violated those commitments by not fulfilling them. That's my question for you. That's my concern. I don't have any more questions of you.

I'm not going to do that, mayor pro tem, because i didn't understand. ...

Mayor leffingwell: okay. We'll vote on the substitute motion first, which is to deny the appeal, which would have the effect of approving a conditional use site plan, and the main motion is to uphold the appeal, which would be, in effect, deny the conditional use site plan. So on the substitute motion, by council member cole, all in favor say aye.

Aye. all opposed say no.

No.

Mayor leffingwell: no. So in favor were council member cole, spelman and riley, and no were council member morrison, myself, shade, mayor pro tem. So the substitute motion fails. Go to the main motion, which is to uphold the appeal, deny the site plan. All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no?

No. so that passes on a vote of 4-3. Council member riley, cole voting no. So the appeal is upheld. The conditional use site plan is denied. So before we go to item no. 64, Tell me quickly what is required to dispose of this great hills country club issue that we had an outstanding discussion with? guernsey and the applicant met and determined that we are okay with the action that was previously taken by the council.

Mayor leffingwell: okay. And so the -- it was approved on second and third readings and so we're good to go?

It was approved on second and third readings. The applicant and staff are in agreement on the conditions so we're approved at the time. very good. Thank you. So we'll go to item no. 64.

Planning development and review department, item no. 64, Conduct a public hearing and consider an ordinance amending chapter take-2 of the city code to create a new residential use, conservation single-family residential. They passed a resolution where they found fa the single-family, may disturb environmentally sensitive areas and the clustering of single-family residences can mitigate environmental concerns and impacting overall water quality and the staff was directed to go out and establish a new zoning category. Upon further review the staff determined the better approach would be to establish a new use in the land development code. We call it conservation single-family. Basically it would allow a person, as a quick example, if they had a piece of property that was zoned single-family 1, they could normally put five houses on it. However, it had an environmental feature we wanted to protect like a creek, cave or sinkhole it would allow them to do smaller lots than normally allowed in a single-family but density allowed in a -- and allow the properties away from the environmentally sensitive feature. The environmental feature would be contained within a conservation lot that would be jointly maintained and owned by the owners -- the rest of the owners in the subdivision and the city would enforce that through a binding restrictive covenant and subdivision plat notes. We've taken the city environmental board, received their recommendation as well as the planning commission. We've been working with council member morrison's office and we had a couple changes that their office adjusted to the ordinance and I can read those real quickly, if that's okay. One is to add -- I'll just read the whole thing. The conservation lot must be jointly owned and maintained by owners of individual residential lots and prervedz undisturbed, open space by means of a legal binding agreement such as a conservation easement approved by the city of austin was added, and a plat note approved by the city of austin and added at the time of subdivision, industrial part 3 g was that impervious cover will be allocated among individual lots at the time of subdivision. And again planning commission, environmental board and staff all recommend approval of this ordinance. Questi questi ons of staff? Council member morrison? I want to thank staff for

all their work and refining it, and also mayor pro tem and the mayor who were co-sponsors with me on this in response to the cases we had seen come up a lot through the oak hill neighborhood plan. So I think this will be a great new addition and hopefully it will be refined and usable and I'll look forward to it.

Mayor leffingwell: okay. So mayor pro tem? I want to thank mickey bentley for forcing this conversation. so we'll go to our public hearing and there are no citizens signed up to speak on this item in the public hearing. Is there anyone who would like to speak on item no. 64? Hearing none I'll entertain a motion on item no. 64. Council member morrison. Council member morrison moves to close the public hearing and approve the ordinance amending on all three readings, seconded by the mayor pro tem. Further discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no? Passes on a vote of 7-0. 65, conduct a public hearing and consider an ord amending the city code related to the processing of applications for historic landmark designation. On may 10 of this year they passed a resolution, one portion directed us to examine the practices regarding historic landmarks in other cities, to work with the landmark commission to prepare recommendations to limit the total amount of property tax exemption, didn't say cap. To work with the landmark commission to prepare recommendations on any other aspects of historic property criteria and prepare analysis of the economic benefits of historic renovation, to bring it back by december 31 of this year. We're working on that right now with the operations subcommittee of the historic landmark commission and do intend to report on those portions of the resolution by the end of the year. I'll also include the resolution was a resolution by today to bring back a code amendment to limit the number of landmark cases to no more than three per month except in the case of nominations initiate yaited in request to demolition and to limit the number of owner initiated and landmark initiated historic landmark nominations located in national register or local historic districts, other than by -- except for a relocation permit, to one to two lots unless they're not completely filled, in which case they can be filled by, who districts. The city staff took them to the landmark commission, the zoning and platting commission and the full planning commission. With regard to the first portion to limit the cases to three per month, the landmark commission recommended approval and added four conditions. One, that the landmark commission initiate cases not being subject to the cap, the local historic district nominations not being included in the cap, the demolition by neglect cases not be included in the cap. And that the cases involving city owned property not be included by the cap. They also suggested that their operations subcommittee look at the possibility of a mayor-based selection system. The subcommittee considered that and they chose that cases for each month's agenda should be on first come first serve being sure the applications are complete.

the staff recommendation is the same as the zoning and platting commission recommendation. In other words, we support the council resolution as passed, but do believe the demolition by neglect of historic districts and city owned properties should be excluded from the three per month cap. With regard to the limitation by national register, local historic district, all the commissions and the staff had no additional comments on the provision as recommended by the city council. Under additional provisions recommended, the landmark commission and the planning commission recommended that the limitation

on the number of cases expire on december 31st of next year. The zoning and platting commission recommended that it not spear and the staff supports the zoning and platting commission recommendation. Finally, the landmark commission and the planning commission both added a provision that would prohibit paid purveyors from entering into historic zoning cases and that is in the ordinance in front of you today. I'm available for any questions.

Mayor Leffingwell: Questions for staff? In that case we can go to our public hearing and we have -- I'll just go in order here. First speaker is michael halleran. Not here. Signed up for. Randall salu. Signed up neutral. And james powell was donating time. I don't guess he's here. So next is. And signed up neutral. And bridget beneke, is she here? Or lori renterria. You have three minutes.

Good evening again. My name is lynn team. I'm actually michael halleran, we co-chair for the heritage society. We've been quite interested in all of this and we've had many conversations about our opinions and how -- as ways to proceed. We have sent you letters. We obviously had some other ideas about how these things should be handled in the interim, but at this point we think it's fine to go ahead and do it the best way you can, but I want to make a couple of points. I want to be sure it isn't interim. And an interim with no end time is not an interim. And the policies that we're working under are not best practices by any means with this -- wait the formulation -- the way the formulation of the cap is set up. The other thing is we're very concerned that we improve the procedures for how we handle owner initiated cases for landmark designation. And we think a lot of work needs to be done on that. We were hoping that we could do some more of that in an earlier time. We wanted to suspend the cases for awhile until we had a chance to fix the train instead of trying on do it while it's moving. But if those two things, if we can just be sure that we do have an end time and that we will have some focus on our procedures as well as the tax abatements and the other elements that we'll be looking at, then we're comfortable moving ahead in whatever way that council sees as wise.

Mayor Leffingwell: Thank you. Those are all the speakers that we have signed up wishing to speak. Is there anyone else that would like to speak on item number 65? Hearing none, I'll entertain discussion or a motion on item 65.

Spelman: Move to close the public hearing and approve item 65 on all three readings.

Mayor Leffingwell: Approval of which version?

Spelman: I'm sorry, actually, the only version i found in backup, the planning commission version.

Mayor Leffingwell: Planning commission version, okay. So motion by councilmember spelman to close the public hearing and approve planning commission on three readings. Is there a second? Seconded by councilmember morrison. And is there any further discussion? Councilmember shade.

Shade: I really appreciate the work that lynn in particular you've put into this, and I want to reiterate the importance that this is temporary. I did want to clarify a few things and ask that there be a couple of changes. One is throughout the -- the language that we originally passed in our resolution didn't stipulate

residential use properties, so I would like to strike that phrase throughout. And I'm hoping these will be friendly amendments. Throughout the sections so that we revert back to its properties. And secondly it seems to me -- I may have missed what you said, Jerry, but on the section -- it looks like it's section c, limitations in subsection a and b of the section shall not apply to applications initiated by any reason by the hlc or applications for property owned by constituent. That's different from what I thought I heard you say. Our original limitations was it shall not apply to applications from and the other items that you talked about are addressed elsewhere. Is that not correct?

Well, specifically the original council resolution included landmark initiated cases as being subject to the three per month limit. The other types of cases, aside from the landmark commission and the planning commission wanting to not subject landmark commission initiated applications to that cap. They also suggested that three other kind of cases not be subject to the cap, local historic district nominations, demolition by neglect and cases involving city owned property. The planning commission did not carry those over into their recommendation. They're not in the ordinance that's in front of you. So what's in the ordinance in front of you is that section c of part 2 says that limitations in a and b shall not apply to applications initiated by any reason by the historic landmark commission or applications for property owned by constituent. So I'm sorry that part didn't make it in there. The zoning and platting commission recommended that landmark initiated cases not be included in that and staff supports that recommendation. So I believe part c -- if part c was removed you would not have landmark initiated cases that are not initiated because of a relocation permit or a demolition permit being included in the cap.

Shade: But if we struck c and replaced it with what we originally intending, the idea would be that landmark commission can initiate cases, but it has to count as part of the three. How do you capture that idea? The point is to limit the number of cases.

They could as long as they were not three other owner initiated cases that were already on for that month. In other words, it would be subject to that three. The idea of the landmark commission passed is that they would not be -- they would be outside that three. And the concern was that was included in the original council resolution. The concern was if you had three cases, for instance, that took up the -- all three slots that month, possibly the fourth person would go to the two landmark commissioners and say can you put me on the agenda, I really need to go. The original council resolution that would not be allowed to happen. And under the zoning and platting commission and the staff recommendation that would not be allowed to happen as written in the ordinance it would be allowed to happen.

Shade: I wanted to be sure I understand it. And I would like to strike the section d, I'd like to suggest taking that revolving -- what did you call it?

Rollover plan.

Shade: The rollover plan. That's not consistent with what our intent is. I think we've already given staff direction that we would only like to have three cases per month. So would that be okay with you?

Spelman: In view of the fact that this is a very temporary stopgap measure and will expire, it's my intention, and I believe it's all of our intentions that it should expire as soon as we have a permanent fix for our problem. That's okay, yes.

Shade: Thank you for accepting that.

Mayor Leffingwell: Was that all you had? I thought you said something about striking residential.

Shade: Yes. He already agreed to that.

Mayor Leffingwell: You agreed to that?

Spelman: Yes.

Mayor Leffingwell: So there are really two friendly amendments.

If I could summarize them quick. They're striking the word residential use from sections a, -- a and d -- a, b and d and removing part two c and d. C being the one that allows landmark initiated cases to not be subject to the cap. And d is the one that allowed for the rollover plan. So those two sections would be removed.

Shade: Thank you.

Mayor Leffingwell: Is that to your satisfaction and yours?

Morrison: I have a question.

Mayor Leffingwell: Councilmember morrison.

Morrison: I have a question for staff. shaw, I think you might be able to answer this for me. Thinking about putting limits on how many cases, no matter what kind of cases we're talking about, do we have a right if somebody has filed a complete application, do we have a right under state law not to process that application?

Chad law with the law department. There are no statutory deadlines for these cases, so we would not have a statutory problem, if that was your question.

Morrison: There are deadlines for processing zoning applications in the code, in the city code.

There arpt specified died lines. The statutes that are in the code, we have several -- several sections that help us to move things along, but not a statutory problem, but we do have code sections that address deadlines.

Morrison: So when you say statutory you mean state level code.

I do.

Morrison: So we have deadlines that are required in the code that the planning commission will hear -- have a public hearing on a zoning application with a certain amount of time. So how are we going to not do that?

I can address the one deadline that you just mentioned, which is the deadline we have 60 days for an application to be heard by the planning commission or basically for it to be put on the planning commission agenda, i believe. But the cure for that is not -- it allows the applicant to basically petition to have their case put on the agenda. They petition the director and the director puts the case on the pc or zap agenda. In this case they would be skipping the historic landmark commission all together and putting their historic case on the planning commission agenda and the planning commission would be acting as the historic landmark commission. Which would be a little awkward, I admit. But still they do have that they don't feel their case has been moved along and they would like to move it along, they can.

I guess it feels like we have something that's not quite fitting here because we have a piece of our code that says the planning commission shall hold a public hearing on a zoning application within 60 days, so we're going to say staff is not going to --

I think if you're looking at 25-2-282, and that is in that same section later on where the way to resolve that problem is for the applicant to petition.

Morrison: So that's already foreseen that it might not happen.

And again this is hopefully a temporary measure. I wouldn't -- if we were going to make it a longer term measure, I would like to look at it again.

Morrison: All right. Thank you.

If I may add one thing. I misspoke earlier when i said removing part c, i accidentally obliterated an orn part of this. I would suggest part c replacing what's on the ordinance with language that says limitations in subsections a and b of the section shall not apply to applications initiated by the historic landmark commission, which is the language that was included in the original council resolution. That part needs to stay in part c. The other part we take out.

Mayor Leffingwell: Is everybody agreed on that?

Spelman: Can we do this on all three readings, jerry?

We can.

Mayor Leffingwell: Sounded like a lot more than two changes to me. Spell that's only because jerry talks so fast.

Shade: I would like to call attention to the quote from councilmember morrison in the chronicle about how mind numbing this all is. And reiterate again the importance is that this is temporary. And so we've had a lot of debates about these things that are temporary measures and I really want to encourage us to move ahead and make the temporary even more temporary by solve willing the real issues here.

Mayor Leffingwell: Councilmember spelman.

Spelman: I have two fast comment. The first fast comment is although this does not expire until the end of december of 2011, I very, very much hope this expires a long time before that because as soon as we have a permanent fix for our landmark problem, then i think this thing needs to go away and I think we're all in agreement on that, although I will not ask for a council resolution on the subject. The second thing is that this ordinance such as it is was -- was the first project that councilmember shade and I agreed to work on. Councilmember shade and her office and me in my office have worked very hard to try and keep this thing together. And I hope that our next project is an easier case. Hard cases make bad law. This is not a particularly good law, but the next time we will get it right. Thank you.

Mayor Leffingwell: Okay. So we have a motion on the table with a second. With various friendly amendments. Councilmember shade. I thought we were almost done.

Shade: It's getting late and we're getting giddy, but I wanted to add that mayor pro tem martinez's office also helped make bad law. So I want to make sure that we recognize that. He's all part of that too.

Mayor Leffingwell: All in favor? Oppose said no. It passed on a vote of seven to zero. Thank you. Now that brings us to a host of floodplain variance requests, items 66 through 81. Which are -- I believe we can handle all together at once with one single briefing and one single motion for disposition. The only question I have is the public hearing part we have 10 speakers signed up on item 66. And no speakers signed up on any of the rest of the items. Am I correct in assuming that you are signed up to speak on behalf of all the items? We'll hear from -- joseph, can you answer that question?

They're signed up in favor of all of them, but only -- only I will be speaking. All of the property owners signed up in favor of all of the applications for the variances, but there will only be one speaker.

Mayor Leffingwell: Okay. What I'm trying to get at, if I hold this public hearing using the list of speakers from item 66, but that's going to cover items 66 through 81.

Correct.

Mayor Leffingwell: Okay. So I guess we'll have a presentation from staff. On the combined items.

Thank you, mayor and council. My name is kevin jones with the watershed protection department. The items before you today, 16 of them total, are floodplain variance requests in the williamson creek watershed. All of these addresses are in the subdivision known as the fairview subdivision. Just a real quick brief history on how we came to this point, back in the fall of 2009 there were approximately 76

anonymous code complaints filed with the city concerning garage conversions and carport conversions in the fairview neighborhood. Code compliance inspectors went to the neighborhood and did inspections and they passed out 68 notices of violation in the entire fairview neighborhood. Owners within the neighborhood submitted building permit applications and of those notices of violation, 16 of them needed floodplain variances and those owners have submitted the building permit applications and the variances are here and that's what we're here to discuss. The picture here before us is partially of the fairview neighborhood, not all of it, but it does encompass, as you can see outlined in red, the 16 properties that are in question. The 100 year floodplain of williamson creek is shown in lighter blue color with a 25 hp year floodplain shown in the dark blue color. All these -- all 16 of these homes were built prior to the first regulatory floodplains for the city of austin, which was in 19 qulun. These homes were built in between 1970 and 1976. 10 Of these homes have been in the floodplain since 1981. Four of them have been in the floodplain since 1991. And two of them have been in the floodplain since 2008. The development when we talk about these building permit applications is limited only to a new exterior wall and finishing interior space to convert the garage into conditioned space. So when we're talking development, we're not talking about the entire home, we're talking about the garage conversion only. The footprint of the house due to this development did not change at all. Therefore the development has no affect on floodplain elevations whatsoever. So the development did not cause any increases in water surface elevation on williamson county. Based on our discussions, staff's discussions with the owners, some of these conversions are used as living rooms, offices, work rooms tion dining rooms and some as bedrooms. Most of these conversions occurred prior to the current owner's purchasing the property and some of the conversions occurred up to 36 years ago, prior to the property even being in the floodplain. Some of the flood depths within this area of williamson creek can get quite deep and of these 16 homes the finished floor elevation of these homes range from seven feet below the 100 year floodplain to 7 feet above the 100 year floodplain. When staff evaluates the building permit applications, we identify the code variances that they are not in compliance with and therefore the list -- the variance request -- the main variance request due to this development is the fact that converting garage and/or carport space into conditioned space crses the nonconformity of these structures. They're all in the floodplain. Increasing conditioned space adds conditioned area which increases the probability of inhabitants in the floodplain. So staff considers that to be an increase in nonconformity. In addition, the garage conversions do not have safe access out of the floodplain. The finish floored elevations as I've stated are not one foot above the floodplain, which is what the code requires. And last but not least, the drainage easement variance request is to exclude the house footprint itself from the drainage easement. One item I do want to point out, mayor and council, one additional variance request on item number 80 is unique to itself and not of any of the other 16, is a section in the code that prohibits a person from filing an application for the same or similar variance, for the same site for a period of one year from the date of original denial. AND OCTOBER 1st, 2009 Council denied a floodplain variance for a property, and that property has requested to be heard again. So they're part of this group of 16 and that item has one variance that the others do not. As the city's floodplain administrator, my job is to ensure that the city enforces our floodplain regulations. Some of our floodplain regulations are the minimum standards for our participation in the national flood insurance program. Some of our floodplain regulations go above and beyond the minimum standards to further protect the citizens of austin. The structural certification requirement in the code is a minimum standard for the city's participation in the nfip. The reason for the structural certification is to ensure that development in flaint can withstand the forces of flood waters and will not be swept

downstream. Debris and flood waters greatly exacerbate flood hazards. While the fairview neighborhood has not experienced a 100 year flood, some homes have been flooded with several feet of water and have remained intact. Staff did contact several structural engineers in the city to discuss the structural certifications that would be required, and they did state that due to some of the heights of flooding in this neighborhood that those structural certifications would be difficult to obtain. The elevation certificate requirement is also a minimum standard. The reason for the elevation certificate is the document that shows the elevation of the building in relation to the 100 year floodplain at the time of the permit. FEMA uses this information for insurance premium rating and the city uses the elevation certificate to verify that the proposed buildings are constructed at appropriate elevations as indicated in the building permit. The drainage easement requirement is not a minimum standard. It's a regulation of the city of Austin. That goes above and beyond the minimum standards. However it's an important floodplain management tool to provide the method of enforcement for development of the floodplain and to notify the current and future property owners regarding the floodplain status on the lot. Just wanted to note that the staff has created a drainage easement document. It would suit these areas that would not require the owners to hire a surveyor. Typically when we get drainage easements, there are metes and bounds that have to be created and it's a cost of having to hire surveyors. Staff has been communicating with the attorneys for most of the fairview applicant and they've requested that two of the certification requirements be used as variances for these cases. As the face of the city of Austin who responds to FEMA inquiries, it's my job to talk about the importance of the minimum standards. However these fairview cases are unique and most of them appear to have occurred decades ago prior to being located in the floodplain. Most were complete build previous owners and the improvements that were made are not considered substantial according to FEMA's minimum standards. In the draft ordinance that's in your packet, it's listed of these three, these three conditions, they are code requirements, we list them as conditions and the ordinances as a reminder to the applicant that they are a requirement. One item that I did want to point out again, council, is that these floodplain variances are essentially the first step in having these properties come into compliance. There may be with these cases and some of the other cases in fairview additional zoning issues that may need to be resolved and planning development review is working on those, but I wanted to let you know that the floodplain variance really is just the first step. We're here to answer questions. We have a member of the law department, code compliance and PDR to answer questions. There were a significant number of owners, residents that were here earlier today. There are still some that I can see that are here. And the attorney representing 14 of these 16 Joseph, and his colleague at Coats and Rhodes are here to answer any questions. Staff has worked with Coats and Rhodes with this case. We've had several phone conversations, several meetings and we've had very effective conversations to work with each other to try to come to some conclusions on getting these things wrapped up. I appreciate their involvement in this process. If you have any questions, I would be happy to answer them.

Mayor Leffingwell: So you're recommending approval with three conditions on all of these variances?

Mayor, we're merely presenting the variances to you without a direct staff recommendation.

Mayor Leffingwell: Could you go back to that last slide? Conditions in the draft ordinance. Requiring a structural certification for each building in the floodplain?

Yes, sir.

Mayor Leffingwell: Do you have an idea of what's the approximate cost to the property owner of that inspection?

In our discussions with the structural engineers, we didn't get into a conversation of the exact cost for each one of them. We just talked about the difficulty in that some of these houses have anywhere up to seven feet that are in the floodplain.

Mayor Leffingwell: And elevation certificate and a drainage easement would both require surveys?

The elevation certificate would require a surveyor or a professional engineer to do some survey shots. The drainage easement, typically drainage easements require surveyors. The law department is helped to craft a drainage easement that would apply for these cases that would not require a surveyor, that would be using the property description and then save and except of the structure itself.

thank you very much for taking this up this late hour. We really appreciate it and I'd like to thank the staff for working with us as hard as they have. They've done a fantastic job and covered a lot of ground in a short period of time and really appreciate that. Our investigation of the cost of the structural certificate and the elevation certificate would run approximately 2500 to \$4,000 per home. In addition to that the structure certificate is invasive. You have to drill holes in the structure to make those determinations, so on top of the cost you'll have the cost of repair and remediation. And my feeling is that it's -- it's outside the financial capabilities of these homeowners, and I think that the staff presented the extenuating circumstances that would demonstrate that -- I think that you can legitimately waive those requirements and grant the four variances and the two waivers and grant the danger easement in lieu of that. Are there any questions about -- we visited with all of you and we appreciate that and we've gone over the facts and I think the staff has accurately recited the facts to you. So I won't bore you with that again. mayor pro tem?

Martinez: no questions. I'm ready for a motion. we do have a public hearing.

I'd like to add one more thing. That we have approximately 43 building code violations that remain on these structures, and the code enforcement has kindly agreed to delay further enforcement on those until august the 26th. We decided to take these floodplain and then building code violations and we haven't had a chance to adjust those at all. And so we would like for you to ask the code enforcement to delay enforcement of those building code violations with respect to the garage and the carport conversion until the end of the year, and that you ask the staff to work with us and other stakeholders to come up with a process to address those code violations. Thank you. so all of these code violations involve structures in the floodplain?

They involve -- that's correct. there's no other -- no other --

it involves -- they all have to do with these cases.

Yes, that's correct. It involves conversions of garages and carports.

Mayor leffingwell: okay. Any more questions of the applicant? All right. We'll go to our public hearing. First speaker is dale flat. No dale flat. John joseph, who has already spoken as the applicant. With time donated by kathleen flat. Susie osio, raise your hand if you're here. Do you want to speak? No? Maria hernandez? Do you want to speak? Okay. Dolores alvarado.

No.

Mayor leffingwell: no? Craig davis? Not here. Casta calderon, do you want to speak? Yes or no. No? Okay. Lynn sanders? No speakers. Those are all the speakers that I have signed up that want to speak. Are there others signed for -- their names will be entered into the record. So with that I'll entertain a motion or discussion on this item. Mayor pro tem? thanks, mayor, I do have a few comments i want to make but I'll try to get a motion in before we all fall asleep. I want to thank the neighbors for hanging in there today. It's been a really long day for all of us, but I know it's even been a longer year for you-all and the ordeals you've had to go through trying to get just to this point, and I also know that today is not the end. We still have some more work to do, and this council i think has shown their commitment and we remain committed to help you get through this difficult situation. And in large part through no fault of your own. You bought a house and, you know, for many of you it was built that way, and then all of a sudden, you know, ten, 20 years later you find that you're not in compliance with our floodplain and other code violations. So what I'm going to do, mayor, is I'm going to make a motion, and if I get a second I'm going to read into the record some comments that I think will help us continue moving this forward, specifically some of the things that mr. joseph mentioned. So my motion is to amend the fairview neighborhood floodplain variance -- no -- yes, granting variances from design and certification requirements. So I move to amend part 3 of the ordinance in backup for items 66 through 81, to add new subsections e and f to read "a variance -- part 3, a variance is granted from, e, the requirement that the design and construction located in flood hazard areas be in accordance with american society of civil engineers manual 24 flood resistant design and construction, prescribed in city code section 25-12-3, building code secti 4, design and construction, and f, the requirement for documentation from a registered design professional prescribed in city code section 25-12-3, building code section 5, flood hazard documentation, and then 2, the second part of this is move to change the design -- designation from part 3, subsection e to part 3, subsection g in the ordinance and backup for item no. 80. And this should be provided to each one of us on the dais as well as the comments that I'll make if I get a second.

Second by council member shade. so what I'd like to do, mayor, as joseph has mentioned and as we all know there are still issues. This doesn't cure everything that's out there today. It does help move forward, but there are some remaining issues. Whenever conversions were made sometimes -- not sometimes, but electrical wiring was put in the walls, lights were put in, maybe plumbing covered up with sheetrock. It's going to take some substantial work for us, you know, to move to this next phase of getting all of these other code violations now cured. So what I want to do is just read some language into the record that staff has provided that feels like it's most appropriate so that we can accomplish everything that we're trying to accomplish with this neighborhood. And the factors to consider in amending fairview neighborhood floodplain variances are that these cases do not increase flood levels or cause adverse flooding on other

properties -- yes, other properties as mentioned by staff's presentation, the development involved in these cases does not put other citizens or current owners in harm's way since these homes are already in the floodplain and the development did not increase the footprint of the home, as mentioned by staff; the development involved in these cases consists solely of one or two walls enclosing an existing garage or carport, which is not a substantial improvement to the house and the houses, garages and carports in these cases were legally built before the area was in the floodplain. In most cases the garage and carport closer appears to have been completed at a time before the area was in the floodplain, though without a building permit. This cannot be documented. These cases deal with development completed up to 36 years ago and in most cases not by the current owner. The the variances are considered the minimum necessary to provide relief from a minimum level of development. Granting variances from the professional certifications for these cases should not set a precedent for or suggest the lack of importance of these certifications for cases involving proposed development in the floodplain. And in addition to that i want to speak specifically to the issue that we're going to be facing here in a few days, as it was presented, many of these, i guess, requests for variances, the abeyance goes away the 26th of august and we potentially have some that kick in and some code violations, and I want to make sure that we give the necessary time to help these folks come into full compliance with the other code issues that are still pending out there. And so I hope that we'll explore things like, you know, amendments and expansions of potential amnesty programs and getting our planning and development review department director, guernsey, to work with the law department and the applicants and the representatives to explore how the limited amnesty program specified at the land development code 25-1-365 and the building 4, can be amended or expanded to decriminalize and provide an affordable process whereby the fairview neighborhood and other similarly situated neighborhood with long residential code violations may bring structures into compliance. And I can provide this also to the clerk as well. so just to simplify the motion and the additional direction, it's safe to say that your motion, in effect, grants variances for items 66 through 81.

Martinez: correct. Reques reques ts variances, and does not require a structural inspection?

Martinez: correct. and extends enforcement of outstanding violations -- i don't believe I heard a specific time. well, I mean, I'd be open to putting a time frame on it, but what I'd also want to emphasize is that as we approach that time, if good faith efforts have been made and progress has been made, let's not come down on them and go over this again and give them code violations. If they really is trying and making progress let's keep working with them. So if you want to put a date that's fine. let me ask mr. rhodes. Do we need a specific date to extend the moratorium? Because we have one now.

And mayor, we've been working with the fairview neighborhood, allowing additional time, we'd be willing to allow them additional time if the council approves this variance tonight. Additi additi onal time still unspecified

the request is till the end of the year and we'll be willing to honor that request till the end of the year. I'll say december 31, 2010. Decemb decemb er 31. And also the expense item in the inspections was the elevation certificate. That's also not required by the motion you just made.

Martinez: right. and you're also enclosing the closing the public hearing.

Martinez: yes. all right. Does everyone understand the motion?

Yes.

Mayor leffingwell: okay. M m art further discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. and if my calculations are correct those are all the items on our agenda. So in that case without objection we stand adjourned at 12:44.