

Closed Caption Log, Council Meeting, 12/16/10

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>> good morning, I'm austin mayor lee leffingwell, our invocation today will be by andrews presbyterian church, please rise.

>> It's very challenging to do a prayer or invocation in austin, texas, because we're so wonderfully diverse so it's hard to think of a prayer that doesn't exclude someone. I saw the blog the other day that said praise the whatever, which I don't think quite cuts it. While we have a different idea of what the word sacred means, we also share I think a sense of depth out of which we all come, a broadness that would include all people. My blessing for you, not a prayer but a blessing wish is that every decision you make today you'll feel it coming from your deepest values and your broadest vision. Thank you for this day of public service and may you feel blessed by whatever it is you consider sacred.

>> Please be seated I would like to recognize mayor pro tem martinez on a point of personal privilege.

>> Thank you, mayor. For those of you that will remember, jennifer gale was a regular fixture here at city hall. Regardless of what you thought about jennifer, what I think about homelessness in austin, absolutely no one deserves to die on the streets of austin, that's what happened two years ago today. Also two years ago today, jennifer came down to this building and sang silent night to us, you know, in taking her three minutes of the public comments portion of the public health and human services subcommittee. Councilmember shade and i would like to just in memory of jennifer on the second anniversary of her passing tomorrow, give her three minutes this morning and then we want to announce that we are going to permanently affix a name placard in her honor on a front row seat here in the city hall so that jennifer will always have a seat here at city hall. We will play a video and then councilmember shade will make some additional comments. Hi austin, city council members, randi shade, mayor leffingwell, future possible mayor mike martinez.

>> I forgot about that part.

>> [Laughter]

>> ♪♪♪ silent night, holy night, all is calm, all is bright. Young virgins, mother and child, holy infant, to tender and mild. .. Sleep in heavenly in peace. ♪♪♪

>> after attending that meeting that afternoon, jennifer went to her normal place she slept in the evening. She didn't stay in the homeless shelters because she was a transgendered male and it was very difficult for her to have accommodations as a transgendered male. She died of an apparent heart attack that night after singing to it. Tomorrow or tonight will be the second anniversary of her death. Councilmember shade?

>> Shade: Thank you, mayor pro tem martinez and as you noticed from the video, mayor leffingwell and mike and I were there for that last citizen communication that jennifer offered, but i think there's not a single person up here on the dais that hasn't been up on the campaign trail and had great memories of jennifer. One of the things that i wanted to make sure that we did is remember that there are people on the streets, a fantastic way that you can org actually has a website where you can donate to the effort,

which is -- they're calling it the hugs campaign this year, which is to make money available for house the homeless to be able to purchase hats, long underwear, gloves, scarves and socks and these are things that are handed out throughout the holiday season in particular on new year's day. I hope that everybody -- I've supported it in the past, I hope that others will consider doing the same thing.

>> Thank you, mayor.

>> Thank you, councilmembers. So with that, a quorum is present. So I will call this meeting to order of the austin city council on thursday, DECEMBER 16th, 2010 AT 10:10 A.m. in the morning. And we're meeting in council chambers, austin city hall, 301 west second street, austin, texas. We will begin with the changes and corrections to today's agenda. 5 add the phrase recommended by the planning commission. 7, 97, add the phrase recommended by the planning commission. 98, delete the entire sentence in parentheses that says suggest a date and time DECEMBER 16th, 2010, 4:00 at austin city hall 301 west second, street, austin, texas. Our time certain items today 30, first an annual report, from austin technologies incubator on 2010 activities and accomplishments. Second, the austin water conservation plan briefing. 00 noon citizens 00 , zoning matters, at zoning hearings with upon actions. 530, The featured musician tonight is charlie faye. And I have an additional page of changes and corrections. Going back to that. Item no. 46, is withdrawn. 49 and 50, are recommended add the phrase recommended by the electric utility commission. Item 54 is withdrawn. Item 57 delete the entire sentence which reads the cooperative contract is exempt from m.b.e./w.b.e. Ordinance. And also the sentence this exemption is -- is in compliance with chapter 29 d of the city code, parentheses, minority-owned and women owned business enterprise procurement program, close parentheses and the third sentence, no contracting opportunities were identified; therefore no goals were established for this contract. this contract is in compliance with chapter 2-9 c of the city code, parentheses minority-owned and women owned business enterprise procurement program, close parentheses. Although this cooperative contract is exempt from the contract, 4% m.b.e. and 17.75% w.b.e. Subcontractor participation. And on item 6 add as a co-sponsor on item 66, mayor pro tem mike martinez. On item 67, add as a co-sponsor myself, mayor lee leffingwell. On item 68, add as a co-sponsor councilmember sheryl cole. On item 69 add as a co-sponsor councilmember bill spelman. On item 91, add the phrase planning commission recommendations should read to grant family residents historic landmark neighborhood plan sf 3 h np combined district zoning. And those are the changes and corrections and time certain items for this morning. The consent agenda is items 1 through 71, and I will read item 65, which will remain on consent, which is appointments to our boards and commissions. To the commission on immigrant affairs, christopher cano is councilmember riley's nomination. And to the community development commission, karen langley is councilmember shade's nominee. To the lone star rail district, syd covington is reappointed and we are approving a resolution reappointed syd covington to the lone star rail district. And I would just add parenthetically, councilmember cole, is also on that and will be promoting a resolution reappointing her next month. We'll be. To that same. I don't know why it wasn't included on this particular item. So items that are pulled off the consent agenda, which again is items 1 through 71, 4 is pulled by councilmember riley, item 23 is pulled by myself, 24 will be pulled due to speakers, and I skipped 21 and 22 are pulled by councilmember spelman. Item 59 is pulled by councilmember morrison, item 71 is pulled by mayor pro tem martinez. Are there any other items to pulled off the consent agenda by councilmembers?

>> Morrison: Mayor, that's -- that's an error. I'm not pulling item 59.

>> Mayor Leffingwell: So item 59 will remain on the consent agenda. So you don't have anything pulled. Wow. [Laughter] okay. So that is our consent agenda, 1 through 71 with the exceptions just noted. Before we entertain a motion we have single speakers on several items. On combined items 32, 44 and 45, image whistler is signed up for wishing to speak for three minutes. Madge whistler. You can come up and try to talk us out of taking it off the consent. You have three minutes.

>> I have a two minute video clip that I would like to show you. It's representative of the types of criminal activity that would be captured or hopefully deterred in the downtown area with the use of the a.p.d. halo cameras. These video clips were taken on fifth street right across from a major hotel. A large residential

building just adjacent to the convention center parking garage. You'll see a small sample of the downtown open air drug trade, these videos were taken with a low cost consumer camera and I expect the halo cameras to produce much higher quality videos.

>> These videos were all taken within the last three or four months, as you can imagine the watch group is anxious for the cameras to be installed.

>> Thank you.

>> We have one speaker on item 62. And 63. Deeann Johnson.

>> Welcome he has three minutes.

>> I'm Deeann Johnson the branch manager of the legal aid office. I want to thank you for recognizing Jennifer Gale this morning and mentioning house the homeless. Our office raises money every year for our support staff and attorneys, so thank you for mentioning that -- so I -- I had to sign up neutral today, which is unusual for me. But I wanted to tell you that these two ordinances, both 62 and 63 are better than nothing, which is what we have right now. But on behalf of the taxi drivers, I would like to say that we had recommendations to base the minimum out of the airport on the average six mile trip, which is how most of the calculations for taxi driver rates a fare are taken place. Based on a minimum of a six mile trip would put us more in line with the Dallas and Houston airports. Related to the cleanup fee, while the 10 cents added to the drop fee raises some money, it doesn't really adequately reimburse cab drivers for having to clean up the soiling that might take place in a cab, especially the people who work in the downtown area. In some cities they have it as a class C misdemeanor to soil a cab. You could add an automatic soiling fee to the fare and make fare jumping a class C misdemeanor. It would allow a better reimbursement for the cab drivers who actually experience soiling in their cabs. In addition, the staff has told the drivers that they -- has the driver would be -- that the driver would be ticketed if the driver refuses to allow a passenger to get into their cab with food or drink. And so going along with our fiction of independent contractors where the cab driver is supposed to be in control of the vehicle that they are driving, this doesn't make any sense. And the cab drivers ought to have the ability to refuse entrance to a passenger with open food and drink. So that that would reduce the chances of spilling in the car. Long term, we still are asked -- to stop giving the permits to franchises for \$400 a year who then resell it to the drivers for \$13,000 a year. If you would put that money in the pockets of the drivers, they probably wouldn't qualify for the free legal services and other services that all of the social services providers you fund provide to them. Thank you.

>> Mayor Leffingwell: Thank you. I will entertain a motion to approve the consent agenda. Mayor pro tem moves approval. Seconded by councilmember Spelman. All in favor say aye.

>> Aye.

>> Opposed say no. Passes on a vote of 7-0. Before we go on to take up additional items, this is an advisory of postponements that may occur later on in the day. 30, there will be a request for postponement of the water conservation BRIEFING TO JANUARY 27th, 2011. , there will be a request to postpone item 76, 77, 78, 79, and -- and 81, indefinitely. And could I ask you to please hold down the conversation until you get outside the chamber please. There will be a request to 82 until JANUARY 11th, 2010. Per recommendation of the planning commission. And the same for Adam -- item 83, 84, also postponed until January -- well, excuse me, 83 postponed to JANUARY 11th, 2010 PER Planning commission recommendation. Item 84 planning commission recommendation to postpone indefinitely. Item 83, 8 -- and 87 planning commission recommendation to postpone indefinitely. And item 92, planning commission recommendation to POSTPONE TO JANUARY 11th, 2010. [Sic] so -- so with that we can go back to those items in order that were pulled off the consent agenda. 4, councilmember Riley.

>> Riley: Thanks, mayor. Item 4 relates to parking for employees at the Faulk Central Library and the Austin History Center. I pulled this item last week to visit with staff about the possibility of taking a

somewhat different approach. For years we have paid to buy parking for these employees. We're paying \$100 a month for each space. And so -- the question that I have asked for some time now, couldn't we offer the employees there the option of either taking the parking space or finding some other way of getting to work. Either walking, car pooling, taking the bus, riding a bike, giving up a parking space and in return pocketing some cash. That would serve the city might well save some money, we would be encouraging alternate transit, we would be improving the employees quality of life in the process. That raises a lot of larger questions about the way we manage parking in general. Especially with respect to the central business district where congestion continues to be a real issue. This arises at a time when we are working with our partners in the downtown community on managing traffic and encouraging employers to promote alternative transit with their employees. I think it's important that the city do what it can to be a model employer, demonstrate best practices and to show how innovative approaches to parking can actually serve the interests of the business, the employees and the whole community. And so we are going to continue this conversation. I expect to be bringing forward a resolution within the next few weeks, so that we can ask staff to take a -- a look at the way we're handling parking, not just at the library and the history center, but across all of our city facilities. Especially those in downtown and see what we can do to demonstrate best practices and be a model employer with respect to the way that we manage our parking downtown. So with all of that said, i appreciate the staff's willingness to work with us on that. This is going to be ongoing effort. We will be talking more about it and -- and with that, with that in mind, I'll go ahead and move approval of item 4.

>> Mayor Leffingwell: Motion to approve item 4 by councilmember riley. Seconded by councilmember spelman. Discussion? All in favor say aye.

>> Aye.

>> Opposed say no. Passes on a vote of 7-0. We will go to items 21 and 22 pulled by councilmember spelman.

>> Spelman: Mayor, i wonder if someone from city staff could come up and confirm what I suspect is going on with these items for me.

>> Good morning, mayor and council, my flame is ernie rodriguez, director of e.m.s. Ready to answer your question.

>> Spelman: It appears from the wording of these items, I understand that you are not responsible for the wording of the items in the agenda, this is a legal question and the law department is constrained under state law and previous practice to write things in a particular way. But it appears from the face of the way 21 and 22 are written that we are going to be spending [indiscernible] on a couple of new e.m.s. Units and pulling that money off of the general fund budget stabilization reserve which is our rainy day fund. Is that accurate or where are we getting the money for these units?

>> The money is coming from the city to the county through our interlocal agreement. The county is funding the costs of the ambulance and personnel. Their budget was approved after ours, so we are having to actually come back and amend our budget. The movement through the stabilization fund I'm going to need to let somebody else answer that question. I'm not sure how the money flows, but the source of the funds is the county paying for all of the costs.

>> Spelman: So far as you know, the budget stabilization fund is not going to be out any money. We may be pulling money out of one bank account and putting it into another.

>> Actually the budget stabilization reserves will grow a little bit as a result of this action. The reimbursements that we are receiving from the county based on how the interlocal agreement works are a little bit in excess of the cost of the proposal. As chief rodriguez mentioned, roughly about 4 million of revenue is coming from the county and that's going to go to three different funds. One million, \$66,000 will be an attempt to the general fund operating budget of e.m.s. To fund the staff for these two new

units. \$160,000 Going to our one-time critical equipment fund to pay for the equipment that's going to go to the new paramedics and also to outfit the ambulances. The ambulances themselves will be purchased by the county, but then they need to be outfitted with mobile data computers, radios, et cetera. The remainder, 159,000 will as an additional amount to our budget stabilization fund. So three -- three sources of -- three funds that are going to be affected by the additional reimbursement revenues from the county.

>> It looks on its face as though we are going to be out \$1.4 million. But in fact we will be to the good about \$159,000 in the budget stabilization fund.

>> That's right.

>> Spelman: All right. Thank you. My apologies on behalf of the law department for the this wording and for any confusion that anybody may have had by this. We actually planned on this before we passed our budget in september, is that correct? We were aware of this interlocal agreement being --

>> I believe the discussions were underway but hadn't been finalized yet but the county didn't final their budget yet so we didn't include them in our budget.

>> Spelman: Thank you, i move approve of 21 and 22.

>> Mayor Leffingwell: Councilmember spelman moves approval of 21 and 22, i will second and comment that that posted language got almost everyone's attention on the council and the city manager's as well. If we could be a little more fullsome in our explanation in the future when we talk about taking funds out of the sustainability funds it would be helpful to all, i think. Before we go on, we are past 30 now and without objection, we'll postpone the briefing on the water conservation until january 27th, 2011.

>> Spelman: Mayor, I think we need to take a vote on 21 and 22 first.

>> Mayor Leffingwell: Oh, thank you. Motion and second on the table, 21 and 22, all in favor say aye.

>> Aye.

>> Opposed say no.

>> Passes on a vote of 7-0. So restating water conservation brief postponed UNTIL JANUARY 27th, 2011, Go to item 23. Which I pulled -- item 23 is our legislative agenda, of which you all have copies of. And I pulled it solely for the purpose of adding an amendment to any motion for approval and that amendment would be to -- to add city council support, under the support column, legislation, which would allow voter approval of civil service status for our e.m.s. Personnel. So I hope to add the -- the motion would include that amendment. I entertain a approve item no. 23. Motion by councilmember morrison to approve 23. I will second. Further discussion? All in favor say aye.

>> Aye.

>> Opposed say no.

>> Passes on a vote of 7-0. 24, has several citizens signed up to speak. The first is mamie reader. Mamie reader is signed up in opposition. Welcome, you have three minutes.

>> I hate to say that I'm against it because this is an ordinance that we've worked on and very much for. But it needs some rewording. We just read this yesterday. So this is kind of -- kind of new to what -- as to what some of the wording was. I've been involved in the no kill meetings and subcommittees and I'm very passionate about getting this going and I very much want this ordinance. But not the way it's

written. It's very unclear. And the first time it was written we asked that it be clarified. But now it -- it is now written in a way that it could harm rescuers, particularly the independent and smaller rescuers and the rescuers that are starting up. It costs a lot to be a 501 c 3. You -- the exemptions are for town lake and for rescue, certified rescue partners and for 501 c 3 rescuers registered with the city. Well that registration doesn't exist from what i understand to start with. But second of all, if rescuers chose not to work with town lake, they probably don't -- we don't know what this means. Is there going to be a fee for this? How is this going to be -- how is this going to be done? Does this mean again that it will be an improved rescuer? 501 C 3's are registered with the state. I don't know what the registration means. There are a lot of terms in there that are difficult. What does bred mean? Does that mean that the two animals were bred at that property or does it mean that the animals were born? Lots of people send animals away to be bred, females, then they come home and have the puppies or kittens there. That's very unclear. What is a humane officer? Animal control or humane officer be part of the humane society that they are policing this. I don't know how in god's name you are going to be able to monitor or end force this either. Enforce this either. It is unwise, considered unwise in the animal community to have free animals that you should be charging some fee so that they don't end up in labs or for bait dogs or for fighting or whatever. That is a common, you know, common thing. What are you going to do about craigslist. There's just so much about it. Mandatory microchipping. Our dogs are tattooed to start with, identification, one in each ear, we don't feel we need them to be microchipped. You all passed no kill, i worked very hard for it, really excited about it. And I just hate to see us passing something that could be worded so it's okay. That -- but at this point it looks harmful to the independent rescuers. And every independent rescuer keeps whether they are certified by town lake or not, work with town lake, every animal they save keeps that one out of town lake.

>> Thank you, ms. reader.

>> We're altogether in this, hopefully.

>> Mayor Leffingwell: Next speaker is julia devorsac, also against. Thank you, I'm -- co-chair of the rescue committee that was formed by the animal advisory commission. I want to begin by saying i am totally for an ordinance to stop wide-spread irresponsible breeding of campaign I don't know I don't know animals. The question is the wording. There's major glitches that can do some major damage to small rescue. I believe that some of the definitions need to be clarified and some of the terms need a definition. Like there's registered with the city. City legal hasn't even told us what registered with the city means. The fee, annual fee, no fee? What does it involve? Someone told me outside before the meeting when i was signing up to make these things noticed, said oh, no, it only applies to unneutered, unsprayed cats and dogs, but I have the thing right in my hands i don't see anywhere that it says a pet trader is one who deals in unsprayed neutered and dogs, unsprayed dogs and cats. a pet trader means anybody. It doesn't matter the number or how many in a year. It's all been scratched out. It is anybody dealing with dogs and cats. The only people who are excluded from giving away, selling, bartering, trading, anything, the only people who are saved from it are if you are the city of austin animal shelter, if you are a certified by that shelter and if you are a non-profit. Tell you that a non-profit status has nothing to do with the kind of rescue that you are. That doesn't mean anything, there have been bad 501 (c)(3)s and there are exemplary small rescues, what is happening is it will effectively kill no kill because if you -- you have to realize how many small rescues take up the slack and help save animals. So there are many things with the verbiage that need to be changed. If we're so sure that rescues are safe, then you should have no problem putting in there a section that says who is exempt and include I want to see something in writing that says grassroots rescues including citizens -- individual citizens, private [indiscernible] organizations, rescues, charitable ones, are also exempt from the presumed pet traders because we all know what we're after. We're after these places that are 500 animals in cages and crowded and what we're doing is throwing the baby out with the bath water. We're saying all you people who do small rescue, you find -- get a litter, maybe it's a feral litter, you spay and neuter them, find homes, they are now criminals under this ordinance. We have not included a safety place for small rescue. [Buzzer sounding] we don't want to kill no kill. Thank you.

>> Mayor Leffingwell: Thank you.

>> David indstead. Signed up for. You have three minutes.

>> Good morning, mayor, council. I'm the vice chair of the animal advisory commission, I've been in the ground floor for the pet trader and the retail ban. I want to assure you this ordinance in no way will harm or kill the no kill movement. It is endorsed by virtually every animal welfare organization in the city. You will see right off that 9% of rescues are exempt. They are not classified as pet traders. City legal was very clear with me that we had to have something in there in the 501 (c)(3) qualification that was what they wanted to put in there. It's very easy to get a 501 (c)(3). I have one myself. I'm going to use it to adopt out my animals. I got it done for free with a local attorney in town. Other independent rescue groups, like marney and julia are free to umbrella under my 501 (c)(3). Or they can get their own if they want. Frankly, I think every rescue group should have that so they can accept donations and buy supplies tax free. That's their decision. It's a very good ordinance. We worked really hard on it. And if anybody has any questions, specific questions on it, I'm the guy to ask. But it's very good. It has wide-spread support. And I urge you that pass it. Thank you very much.

>> Mayor Leffingwell: Thank you. Next speaker is -- next speaker is martine huslig. Signed up against. In the chamber? Okay. Again, martine signed up against, you have three minutes.

>> I am here representing the responsible pet owners alliance. We are a state-wide animal welfare group. We represent the responsible pet hobby enthusiasts across the state of texas. And we oppose this legislation. We feel that there's a national animal rights agenda. That seeks to limit and ultimately eliminate breeding and pet ownership. Ie the same people that would like to see us all be vegan or the same people that are supporting some inthis type of -- some of this type of legislation. We're seeing it all over the country and we're seeing it in localities where -- where there's an attempt to say we -- to [indiscernible] legislation that limits the ability for people to breed and sell dogs. One of the disturbing aspects of this legislation is it encourages the irresponsible breeder to spay and neuter puppies and kittens. I am a human genetic counselor, a health care professional, there's a great deal of science supporting the fact that early spay and neuter come was a health consequence, increased risk for certain kinds of cancer, increased risk for hip dysplasia, that kind of thing. My points are brief, but i do hope that you'll consider the unintended consequences of this legislation. And think very carefully about how any such legislation might be worded. Thank you.

>> Mayor Leffingwell: Thank you. Also note that you signed up -- that signed up for but not wishing to speak, jennifer hays, julia hilder, pat nordak twice, gene o'neil, patrick o'neil. Those are all of the speakers that we have signed up. Mayor pro tem?

>> Martinez: Mayor, I just want to thank all of the folks who worked on this. I know there's still some concerns about it. But the animal advisory commission has done everything that you have. If you don't want to sign up and get a 501 (c)(3) you don't have to. But this could potentially affect you if you don't. That's your choice. We don't believe this in any way is going to hurt no kill. In fact this is going to help us continue to move forward towards no kill. It doesn't affect any business in town because as of today, and for quite some time now, there has not been a retail pet store in the city of austin, pet land was the last one to close due to some folks here supporting this ordinance. And so I believe it is the appropriate course of action to take. So I will move approval.

>> Mayor Leffingwell: Motion to approve by the mayor pro tem. Is there a second? Seconded by councilmember cole. Any discussion? All in favor say aye.

>> Aye.

>> Opposed say no. Passes on a vote of 7-0. I believe that takes us to item no. 71. Pulled by mayor pro tem martinez.

>> Martinez: Thanks, mayor, I wanted to ask staff some questions on item 71. It really is no action today

other than to set a public hearing. But we have had a request to postpone that -- to not postpone it, but to set the hearing for a different date than what's on the agenda. But before we take action on that, I wanted to ask Kevin a few questions about the item. Because we have a lot of concerns that have been raised this week. Kevin, you and I met this week. We talked about the Betty grants, what they mean, we talked about the specific projects that we would be assisting in applying for the grant funds. Seemed like worthy projects, that they would create projects in and around Saltillo. But questions that I wanted to ask you about. Betty grants. First I want you to tell me a little bit about grant proposals and what they mean, not only to the private entities, but what it would mean to us as a city, would we be liable for any of that debt should those businesses foreclose?

>>> Thank you, councilman. I would be happy to speak to that. You may have received recently the workforce alliance analysis which shows workforce discouraged and -- which indicates that we have a minimum of 10,000 hard core unemployed people. Part of our three part strategy to find jobs for hard core unemployed people has to do with growing small businesses. Those are the businesses that are most likely to hire hard core unemployed people. Also to take advantage of the 3700 acres at the airport, which is industrial land and recruit some distribution companies. And also to use redevelopment as a tool to revitalize run down industrial and commercial areas in the center of poverty communities. So that's kind of the background. This would be the first of a series of projects that we would like to bring to you to help revitalize the commercial areas in poverty parts of downtown. And in doing that, in the -- in the Austin's urban neighborhoods. In doing that, our hope is that we can create two or 300 jobs in each location within walking distance to the people who are unemployed. The grant itself is called a Betty for Brown Field 108 loan combination. To help revitalize poverty commercial areas along railroad tracks where you have vacant lots, boll polluted lands and warehouses that are sitting vacant. It has a history of about 10 years of creating good work and not creating gentrification. The way that it operates is that it's totally a non-city investment strategy. We would apply for federal dollars, which would be available to help local businesses to expand and create jobs. Those dollars would be grants and loans that would provide gap financing if the businesses invested themselves. So in this particular project, there are 60 businesses in this corridor and of the 60 businesses we have done a mailout to all 60 businesses. Four of them presented business plans, said they would like to expand and have submitted business plans and committed collateral that they would promise buildings, their houses and additional finances to back up the loans that they borrowed. In addition the Betty program is uniquely structured so that the grant part of it can be used to ensure that the 108 liability is reduced. The overall project would be 55 million-dollar investment. There would be 209 jobs created. The way that it would be structured is that each property owner, each developer, would commit to a 20 -- they would receive a 20% grant. They would receive 40% loan, low interest loan, they would put in 10% of their own money in cash. And then the balance they would borrow or put in their own equity. They would put up collateral that committed them to repay in the event that they didn't go forward. And so if they had any problems, the first line of liability would be that -- that they would be foreclosed on. So in the past, I'm sure the -- the purpose in bringing this up is because in the past, the city's 108 loan programs have -- have made loans where the city then became liable for those loans. And so it's a drain on the CDBG funds. This is different in the sense that there are two CDBG programs for 108. There is one that is set up for public entities. And those do not require any collateral. They do not require the -- the borrower to have a certain amount of collateral, they do not require them to have a certain amount of cash flow. It's essentially not a business deal. There's a second part of the program which is set up that is strictly a business deal. And that is the program that is designed to create jobs along the railroad tracks in the poverty areas, which requires that when we compete nationally for these dollars, we have to show that the business owners that are drawing down the money have committed -- committed to create a certain number of jobs, but also provide collateral, 100% collateral to back up the loans that are borrowed. So -- so that is -- that is the best answer that I can give you. These -- the dollars that would be loaned to these four businesses would be committed to -- to collateral that they would be required to put up by an independent loan panel. And -- and the first order of business for the receipts from the -- from any of the loan repayments would be to create a reserve fund to additionally do a backup.

>> Martinez: Right in the backup it states that the city that will establish a debt reserve fund should such be inadequate a pledge of block grant funds would be -- do we have that debt reserve fund established?

>> We haven't gotten the grant or the commitment from the grant and that we're asking for is \$8 million. We're asking for \$1,500,000 grant, the balance would be a loan. The loan money would be loaned out to the businesses. We would charge them one percent interest that would come back to the city in addition to their repayment. That one percent would create the reserve fund.

>> Martinez: Okay. And so -- so what are-- what have been the outreach efforts thus far? You know, you said that you contacted 60 businesses. But was it a specific set of criteria that each property owner had to meet in order to receive that contact? Or to be eligible for this program?

>> That's -- that's a good question. criteria is very specific that you have to define an area and you have to remember we're competing with areas all across the united states for this limited pool of money. And so you have to be able to show that you've got an area that has a plan, that -- that you are responding to that plan, that it's unique in the country, and that -- that there are at least some businesses who are willing to invest in this area and create the required jobs. So our public outreach, we began in august. And the process was that we reached out with our partner, the -- with our housing department, with the planning department, with capital metro, and we reached out first to the community development commission. And we told them that we -- that we had this source of funds we would like to go and seek. And explained to them what the bedi program was. Gave them links, gave them handouts, kind of walked through where we were, what we intended to do. The cdc debated it, voted nine to four in favor of supporting it. Appointed two liaisons to us, one that was not in favor, who voted against it and one who was in favor of it. And they asked for both of those individuals to work with us as the project evolved over several months. And as you know, we're getting closer. We hope the no -- notice of application will be out soon. So -- so working with the community development commission and the two liaisons, they advised us to reach out to the east cesar chavez neighborhood organization, which to get more information -- and they gave us this plan that was developed in 1999. And they gave us this plan that was developed in 2006, and they gave us plans that were ole mexico in 1992 and they gave us a number of plans to review to make sure that it was a portion of this. Over that period of time, we have met with -- with the east cesar chavez organization twice. At the last meeting in terms of our public outreach, they took no action either in favor or against the project. They just digested the information. There was actually a proposal, a motion made that -- that the project not go forward, there was a motion made and voted down 7-1. So there is -- there's some -- some -- there's interest in going forward and there's some people who are not. We have made presentations to the -- to the hispanic quality of life committee to -- to the chairperson of -- of lulac 650. We have reached out through the mailout that's -- that you referred to, which i think that you all have received. And in that it was our effort to be just open and fair and to reach out to every single commercial and industrial property in that whole corridor. To see what the level of interest was. Our letter essentially said we've identified some federal funding, if any of your businesses would like to expand and you need a life line of -- of credit and a good deal, please come and talk to us. We had six companies out of the about 60 businesses respond. Two of them said they wanted to build affordable housing. And I shared with them that I'm a supporter of affordable housing. However, housing is actually a detriment in this competition. It's for creating jobs and commercial revitalization. So it ended up there were four businesses. I think that you have the map and -- of the four businesses in the area. Who responded. And if you will -- if you will flip the map as well, you can see kind of the case history of the overall process. So -- so we have had about four -- four or five months of regular meetings. The next -- after this meeting, we have an egrso sponsored community meeting with the cdc, which is i BELIEVE JANUARY 5th. Then we have a public hearing with the cdc on JANUARY 11th. And then we have a follow-up public hearing back here on JANUARY 13th. You know, just -- just on a professional level, we've done everything that we can to implement the economic development recommendations in these plans. And we've been very specific about the kind of development that -- that we've looked at. No activity has occurred in -- in that neighborhood since these plans were put together over the last 15 or 20 years. So this would be the first time to do this. I would propose, in terms of what I have learned and the concern over gentrification, that -- that whatever we do, if we're successful in this competition, that we use this -- this community, the efforts there, in conjunction with the city manager's anti-gentrification team to -- to try and test out some -- some of the state-of-the-art ideas for how to prevent gentrification. And use this as a way to experiment and see if

that -- the best ideas that we can do to work on. But we've made a best effort and we'll continue to make best effort for public outreach. Again, from the best of our recollection, the best of our research, these are the only businesses stepped up to the plate. There's been no activity of economic development in the neighborhood for 15 to 20 years. We have to compete hard to get these federal dollars because there are areas that have great poverty. The last thing that I'll say, in that regard, is that the reason that this is such, I think would be very competitive. Is because it has a lot of poverty. The poverty rate in saltillo is over 30%, which is extremely high. The kids who go to the schools there, 90% of the kids are on title 1, which means the parents can't afford their lunches. Lastly crime in the area is over 500 per thousand people. So I think that the jobs will be helpful if we're -- if we go about this in a balanced and careful approach. We can use this as a key to solving some of the problems in this commercial area. Area.

>> Martinez: So what type of monitoring or oversight will we have in place. When we talk about the creation of jobs, specifically for those individuals in and around that community because of the high poverty rates and the high unemployment rates, how do we ensure that those are the folks who are actually going to be employed in the construction of these projects and then post construction when the business is open? requirements are very specific. That 51% of all of the jobs have to be for low and moderate income people who are in that area. So we know that that -- those jobs we will monitor from egrso and with the neighborhood housing. But we'll take responsibility for monitoring those. We have met or are in discussions with the contractors association to -- to make sure that the first opportunity for the jobs -- because there is a lot of investment that would occur that -- the first shot at those jobs would go hopefully to the neighborhood residents. We can't commit to that. But we're working with the contractors to try to make that happen. On the one project that corrizone project, already built into that is a program for at-risk youth to be trained in the digital media, film, and -- and music business. So we hope to use this as -- as an incubator for real jobs and sole proprietorships as well as the temporary construction jobs. But we have to -- we will be that we have to commit at least two -- we have to create at least 209 jobs and 51% have to be low and moderate income from the neighborhood.

>> Kevin, when my chief of staff was talking to you yesterday, he mentioned that the cdc had made a request, a formal request to delay the public hearing until the january 27th council meeting, I believe. Wanted to hear your thoughts and/or concerns about such a request.

>> Earlier in -- we've been at the beginning of december, the first couple of days of december, the federal agency went into a cone of silence. They notified us that the application was coming out before the holidays. They wouldn't give us any more information, but they said we're going to get this done before the holidays, there will be a 30 day period to prepare the application and return it. So if we delayed it, it would make us vulnerable to missing the drop dead date. We have the three public meetings between now and the 13th. And we have been working very diligently with various community organizations and the cdc. But it's my professional judgment that it does make us vulnerable to miss the drop dead date after this work.

>> But the nova has not come out yet. On this date you will still have a 30 day clock.

>> That's exactly right. The gamble is that if it comes outs in a period that's after the 30 days PUTS US BEYOND THE 27th, Then we are not eligible to apply.

>> So, mayor --

>> I bet betsy would like to make a clarification.

>> We do have speakers signed up.

>> I'm terribly sorry. I believe what the cdc requested was that you separate out, the public hearing remain on 13th, APPROVAL OF THE Application is delayed until THE 27th.

>> Martinez: Okay. Thank you for your clarification. Because of that risk, mayor, what -- when we get to a point to a motion, what i would suggest is that we leave the motion as posted and then on that date if we need -- if we still have the opportunity to take a little extra time, then consider taking action at that subsequent council meeting.

>> Mayor Leffingwell: I will recognize you for a motion as soon as we hear from our public comment. The first speaker is susana almanza. Susana almanza not in the chamber. Gilbert rivera. Gilbert signed up against. Actually twice, but he only get to speak once.

>> Talking about setting a public hearing.

>> Right, I'm gilbert rivera, a member of the community development commission. We are here for a request to postpone this public hearing for a couple of weeks. The reason being that there are numerous questions that need to be, we felt that need to be answered. Today we just heard that it was 209 jobs that were excuse me to be obtained from this project. At our last cdc meeting were told it would be 300 jobs. The other issue on your backup, is at -- down toward the bottom of your backup material, there's a statement that says these jobs will be given out or looked for, for a good faith effort is to be done on this. If I'm familiar with the is very specific about the the number of jobs. It says 51%, when you put in a qualifier of good faith effort, the cdc is concerned whether that's going to be really the amount of jobs that are going to be gotten by the people in the community. The idea for us, mentioned earlier, there is a committee meeting on january the and he at carver library. Another meeting, public hearing on january 11th at the regular cdc meeting, then the public hearing SCHEDULE FOR THE 13th. The -- the key here, for us, it was to see if we could -- the cdc could have enough time to -- to put together comments and recommendations and so forth to -- for that public hearing thats on the 13th and we felt that 24 hour time span between the 11th and the 13th is not enough time for us to get that to the council and properly prepared for distribution. So -- so we were looking at extending it to the 27th and basically that is our -- that is our recommendation that it be moved to the 27th to give us that opportunity to get backup materials and information that we want to give you guys at that time. Thank you.

>> Mayor Leffingwell: Thank you, gilbert. Those are all of the speakers that we have signed up.

>> Cole: Mayor, I have a couple of questions.

>> Mayor Leffingwell: Councilmember cole. gilbert because I'm trying to understand and I think that I need to talk to you, kevin, also, or betsy. If we post a motion but deny the grant, final approval, will that give you ample time for the cdc to evaluate that and get the recommendation to council?

>> That is exactly what we're asking. From the 11th to the 13th, THE CDC FELT THERE Was not ample time to provide that information to get to the council after that particular public hearing that's going to be health on the 11th at the street jones building.

>> Cole: I believe that is exactly what mayor pro tem martinez is proposing. Is that correct? Mayor pro tem? I guess that I was trying to make sure that what mr. Rivera was asking for is exactly what you were proposing. Okay. Thank you.

>> Thank you.

>> Mayor Leffingwell: Any more questions? Councilmember spelman?

>> Spelman: I'm not -- i think that I know what mayor pro tem martinez was proposing. I'm not exactly sure that i know the ramifications of any postponement at the cdc. Do we need the cdc to approve an application before you can submit it to or just the city council approval?

>> The cdc has already taken official action to endorse the project. We announced, we put in the -- we just began running the ads for the public hearing process, the public comment process, today. So

people can respond online or we can provide them written, you know, outlines of the documents of what the application is. So -- so we -- we certainly do not want to do anything against what the cdc has said. That was my commitment to them from the beginning.

>> Spelman: Sure.

>> But they did endorse it nine to four, give us two liaisons as I mentioned earlier, we've been working with them. It's different problems that crop up each time. First there was this is anecdotal, but there was a fear that we were developing the capital metro property. We had to go to several community meetings and go back to the cdc and tell them that we were not doing that. Then there was a concern that we were not developing affordable housing which is their greatest need, we had to go back and explain that the -- that would actually hurt our application as much as we're in favor of it. So it's a series of questions that we're still answering. But the public -- public input process officially starts today, runs at least -- runs the 30 days, we've got three public hearings coming up between now and then and of course we'll meet with the cdc.

>> Spelman: Then all of the application material, so far as you can put them together in advance of the nofa are already online, people can take a look at them, that's correct.

>> That's correct.

>> Spelman: I will happily second mayor pro tem martinez's motion.

>> Mayor Leffingwell: Well, mayor pro tem moves approval, seconded by councilmember spelman. Any further discussion? This is to set the public HEARING ON JANUARY 13th. All in favor say aye.

>> Aye. Opposed no. Passes on a vote of 7-0. I believe that brings us to our 10:30 briefing from ati.
[One moment please for change in captioners]

>> in that capacity it has been very successful at attracting venture capital to the region. Isaac barkus, the director is here to present more on this nationally prominent incubator and its progress to date. With him to answer any questions are bart bolin, mitch jacobson, cindy walker and aruni gunner sakrim, hope i pronounce that had correctly, or close, so with that I'll turn it over to isaac.

>> Thank you very much for the opportunity to address the council. This is our annual report to the city council to let you know what we've been doing over the past year. This report focuses in on the activities that ati has been directly engaged in and the return on the investment that the city of austin is getting. I am not intending to talk in general about the tech sector. I'm happy to do that afterwards if people would like to have that conversation. Can we call up the presentation? Great. If we go to -- there's probably a button here. So just for those of you in the chamber who may not know who we are, we're a division of the university of texas at austin. We are a not for profit program. We've been in existence for 21 years. We have a mission, which is focused on economic development, on educating the next generation of entrepreneurs, primarily at the university of texas. And on building a community that can sustain the economic development and technology activities that we're engaged in. The reason that we're here today is that the austin technology incubator received significant financial support from the city of austin both through contracts with the city directly and through contracts with austin energy. In fact, about \$620,000 of our budget comes from the city, which makes up about 40% of our total support. Given that, we are acutely aware that we need to be delivering value in return for that money, and the next few slides talk about some of the return on the investment that the city has received. For 2009-2010, our economic development metrics, we worked with over 30 companies. We had about 10 new admissions, 13 graduate companies. 29 Million in investment into ati companies over that fiscal year. Five million of that comes through the state's emerging technology fund and 24 million in private investment. In terms of jobs, 183 total employees in the companies at ati. 50 New jobs created last year and 35 student internships. -- Internships. That investment number is higher than it was last year. 2009 Was an absolutely atrocious year for early stage companies who were seeking external capital. And one

of the things that we're happy about right now is that it looks like that capital spout is turning back on. In fact, we're seeing a number of companies, investment companies from outside of the central texas region who are coming to austin to invest. A few more metrics in us in terms of return on investment. We've worked with an gentlemen lieu economics to develop an economic impact methodology. We're grateful to them for helping us with this. Total economic impact over the past year, about \$35 million. Tax impact, about two billion local or three million based on total spending. And if you're looking what the it costs per job, if you take the 50 new jobs, it's about 12 or \$13,000 per job last year. I would like to emphasize that these impact numbers that I'm showing you are based on partial reporting. We only have about two-thirds of the companies that we work that are willing to take time away from being entrepreneurs to tell me all the information i need to give the presentation to you. I think even with the partial reporting you're getting a good sense of what the city's dollars are buying. Three-year impact for the incubator as a whole, about 50 companies. About \$70 million in capital. This is during the great recession. We have about a 75% success rate in getting funding into the companies that we're working with. That's not a guarantee that the companies will be successful, but it does give them a chance to be successful, which is really what our job is. We've had about \$100 million of economic impact in central texas. And our alumni companies have exited about \$300 million of liquidity events. A case study. The company called smooth stone that was in the press over the summer is now called calzada. They joined the incubator in 2007-2008 during the winter with one employee, who had put a lot of his own money into the business. He had quit his day job. They applied for the emerging technology fund with our help. Their first investor was one of our advisory team. They received a million dollars from the emerging technology fund in the spring of 2009, bridge funding a year later, and then over this past summer they secured \$48 million in investment from primarily companies outside of the central texas area, which has allowed them to graduate out of ati. They're now in a new office in northwest austin, 14,000 square feet and they're adding employees at a furious pace. Kevin talked about the work that we do with his team and also with the chamber of commerce in trying to attract companies to austin. We are obviously focused on smaller earlier stage companies, but we do have a substantial track record in working with the city and with the chamber to attract high-tech headquarters to austin. And I have some of the examples on this slide. Last year when we talked to you we said that one of our significant initiatives for this past year was going to be working to try to identify wet lab opportunities in austin. The hypothesis has been that there is a lot of potential bio tech and health care related activity that's having a difficult time establishing itself in austin because unlike san diego or san francisco or minneapolis, we don't have an installed base of wet laboratory facilities. We have two initiatives against that that have kicked off over this past year. One is the utec dorm room, which is wet lab space on campus at the university of texas. We've worked with the mayor's office in order to make that happen in the college of pharmacy. It looks like mayor leffingwell, the first tenant is going to be moving in in january of this coming year. Thank you very much for support with that.

>> Mayor Leffingwell: I appreciate you mentioning. I was going to ask you about that and now you answered before I asked. I appreciate it.

>> To my knowledge it's the first time that university of texas has opened up its scientific facilities this way to the early stage tech community. It's really quite an achievement.

>> I think it will be a good magnet or catalyst for the types of businesses you deal with, small businesses that have this kind of need, but don't want to make that kind of capital out lay. Sorry for the interruption.

>> The second wet lab initiative is a wet laboratory facility feasibility study which we've kicked off in partnership with the eda and other organizations here in austin. It's about a quarter of a-million-dollar study to identify the demand for wet lab space in austin and to try to identify possible locations for a much more significant wet lab facility and also governance issues, operational issues, etcetera, around that. Our partners at the eda are the ones who are paying for most of the study. They are very enthusiastic about this and we think we may be able to use this as a foundation to try to attract more significant funding to austin for the purpose of building a more substantial wet lab facility.

>> I won't spend a lot of time on the community building initiative. Suffice it to say that we either produced, co-hosted or sponsored about 50 events that attracted more than 6,000 people. We think it's very important. One of the things that's distinctive about Austin is that the ecosystem is robust and there are strong networks of people who are engaged, understand early stage technology who are able to encounter each other in multiple different forums.

>> My last slide for the presentation is themes and priorities for this year. One is federal leverage. This past year we dipped our toe in the water of getting federal funding for the first time that we've had some success doing that. The support that we get from the city actually is instrumental in allowing us to go after those federal dollars. We're doing that both alone and in partnership with other organizations. And then second, as I've talked about in the past, we have been investing in pilot programs on the U.T. Campus that are designed to accelerate student entrepreneurship on campus. If you think about some of the major success stories in tech over the past 10, 15, 20 years, a number of them, including Dell, Microsoft, Facebook, Yahoo, Google, have arisen out of the work done on university campuses by student entrepreneurs who then commercialize that innovation themselves. And we are opening up new service lines and investing a lot more of our time in trying to ensure that U.T. achieves its potential as a start-up factory. With that I will open it up for discussion or questions?

>> Mayor Leffingwell: Questions? Councilmember Morrison.

>> Thanks. I appreciate your work. A couple of questions, I think somebody that's probably on everybody's mind is how things are changing economically from your perspective. And you mentioned that venture capital this year is coming in at 29 million. Could you put that in context for us between highs, lows, last year?

>> Last year -- I'll ask my team to refresh my memory. A number of them are younger than I am and therefore they have better memories. I think last year we were slightly below \$20 million in investment capital. The year before that, 2008, I think we were up around 35, 36 million in investor capital coming into AT&T companies. We don't have perfect visibility into investment across all of Austin, but I think that's probably a pretty good representative sample. One of the encouraging things, and I think I mentioned this, that we're seeing now is that a number of investors from outside of Central Texas and in fact from outside of Texas are starting to see investing in Austin as being productive for them and potentially more cost effective. We have two companies in our portfolio and one company outside from one of the major California venture capital firms. We actually had a couple of California VC firms get into a bidding war with one of the companies. I think that's because the kinds of companies we're producing in Austin -- and I tend to be more reality based companies in terms of we don't do a lot of 0 here and Lord knows that's very successful and very important. We tend to build companies that actually make money. And in economic times like this, that kind of investment thesis I think is relatively more attractive.

>> Morrison: So we have, say, a reality-based city here? Great. I guess the -- that sort of answers my second question and that is do you have a perspective on how the interests of venture capital are changing over the past years, especially through the hard economic times?

>> I'll take 2009 and just sort of put that to one side because that was -- that was nuclear winter. The venture capital firms and angel investors were pulling in their horns, sitting on their checkbooks. If they were investing at all, they were investing on companies already in their portfolios. I think right now there's -- there are a number of companies that have cash burn agriculture hole in their pocket a little bit, but there is a lot of caution about where to invest that. And venture capital investing like any business is a bit of a herd mentality and so there are a lot of people chasing the next Twitter or next Facebook. There are also a lot of people who are looking at companies that can generate cash relatively quickly. And I think that's a place where we in Austin tend to have an advantage.

>> Morrison: I think we have that going. I appreciate your comments about trying to work more students and understanding that there's a lot that comes out of that because I think that offering the leverage of this partnership to the is important. And I know that you all are committed to working in the community

with -- younger students to open their eyes to entrepreneurship because that's awfully important. And one question, one last question. And you mentioned that the reporting is that you have is incomplete because only two-thirds of the companies are reporting. Have you ever considered sort of making reporting a requirement as part of parting in ati? I think those are very important numbers and perhaps there's some proprietariness and it's not just time, but --

>> I think there are a couple of things that we need to do differently on the data collection reporting side going forward. One of them is I think that we need to invest more in making sure that we capture the data and that's important from an academic perspective as well as from the perspective of letting you all know what we're doing with your money and the return you're getting on your investment. The data set that we're building up. The incubator is very unique nationally and I think it could be the source of very good research that would inform economic development here in austin and other locations. Yes, I agree with that. The other thing I would like for us to do is capture data from graduate companies. So the job creation number for example that I gave for you this past year only looked at the companies when they were actually in the incubator. That doesn't tend to be their high growth period. We get them to a point where they receive investment or get a big first customer and then they graduate out. It's after they hit that inflection point that they have the job. So I think it would be a more complete picture for us to capture data from alumni companies as well. That's something that we have even less leverage over the alumni companies than the members.

>> Morrison: Again, thank you very much. I think having the partnership with the city is probably somewhat unique but really critical and that allows us through your work to focus on a very important element of our economic development.

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: Ap pro poe of councilmember morrison's comment (indiscernible). In addition to collecting information on whoops to the alumni -- to what happens on the alumni [inaudible]. An earlier point of how we are attracting more venture capital interests than we were before because our companies are making money, it might be valuable not only to collect information about the number of jobs created, which is a very short-term indicator, but to the earnings [inaudible]. I understand the earnings are probably going to be negative while they're in the incubator stage, but those are -- they actually -- [inaudible - no mic].

>> Mayor Leffingwell: And I just want to comment once again on the wet lab. It was -- it's a unique partnership that we've -- hopefully there will be other partnerships like this with the university of texas, but I want to give a little kudos not only to , the folks out at , but this proposal was actually brought to us on a proceed bone know basis by an attorney, michael wayland, so we want to recognize his efforts in this and the city manager's support of it after we presented it to him. So it was something that we -- it was a very low cost item, didn't even require council action, and we're able to do it and I think it going to -- it has a potential for big impact in the future. Thank you. And I appreciate -- any more questions? Thank you very much.

>> Thank you.

>> Mayor Leffingwell: We do have one item for executive session. I believe we can probably take care of that before noon, so we'll at least give it a shot. So without objection, the city council will go into closed session pursuant to 071 of the government code for consultation with legal counsel to take up one item, item 74 concerning john k. Strikland junior, et al, versus the city of austin. Is there any objection to going into executive session on this item? Hearing none, the council will now go into executive session.

>> Mayor Leffingwell: We are out of closed session. In closed session we took up and discussed legal issues related to item 74. Now council, we'll go to our citizens communication. First speaker is daniel llanes. Topic is disk golf at guerrero park.

>> Good morning, mayor and council. Can we get that up on the screen? That map? We're here today to express our opposition to the proposed placing of the disk golf course at 700 grove and especially the idea of taking more acreage from the park itself for the course. There's a tremendous value in keeping the park as wild and natural as possible set against the proven degrading nature of a disk golf course to the environment. The colorado river park comprehensive plan, the blueprint for the development of the park was created in 2000 by representatives of surrounding neighborhoods on both sides of the river, poder and the austin parks foundation. And makes -- and express -- it is an expression of the colorado river's parks unique's standing in the park system. It is the only park that has a combined park and preserve designation. Unlike any other of the austin urban parks, the flora and fauna there have equal standing with people in this park. The views expressed by the park plan take into account our cultural and spiritual relationship to the land and to the rest of nature and the world that we are all a part of. Being part of an established wildlife corridor, the park is dezavala I guessnated to be the least disruptive to the natural habitat. This is how we've designed it. The habitat which thrives there home to several species of birds and their seasonal nestings, some of which are listed on the cril kel species list and there is flora that grows in colorado river park that was thought to be extinct in other places in travis county. This is why we value the wildness of the park so much. This is the only urban park that offers the experience of and protects the wildlife and habitat by design. This becomes an opportunity for us in east austin to use this park for environmental education in the urban setting as well as to provide a space for mental and spiritual health assets to the communities surrounding the park. Unlike other activities, disk golf has been proven to have a negative impact on the terrain. The disk golf course was at pease park and was closed because it was eroding and degrading the park to detriment. And now they want to move it here to colorado river park. If it tore up pease park, why should we want it to tear up colorado river park? Yes don't. Further, there is talk of professionalizing the course and prying tournaments. -- And bringing tournaments. This kind of traffic would certainly be detrimental to the terrain and wildlife and as I said this park becomes an opportunity for environmental education in the urban setting as well as a relief of mental and spiritual health as an asset to the community surrounding the park. As a representative of river bluff neighborhood association, I participated in the creation of the park plan -- [buzzer sounds] , and I chair the keepers of the colorado, a monitoring committee established after the adoption of the park plan.

>> Mayor Leffingwell: That was your time.

>> Excuse me?

>> Mayor Leffingwell: That was your time. Your time is up.

>> Well, okay. Thank you so much.

>> Mayor Leffingwell: Thank you, daniel.

>> I'll leave it to the rest.

>> Mayor Leffingwell: We have quite a few speakers on the same topic. Texas a&m thompson, no disk golf.

>> I would like to speak on behalf of the heritage trees at 700 grove boulevard and to our dismay these trees seem to be viewed by pard as problems for their proposed disk golf site. But for the community -- you can go to the trees. The community views these trees as a blessing and a gift that have survived on this site for hundreds of years. The site itself is sustainable. It has a running creek. It has a wet land. And it has as pard staff has referred to it, a mono culture of mesquite where a great number of critters live. So whereas we are very worried about the value that pard places on a lot of the things that we consider to be of great esthetic value to the community. So our goals should be to continue this sustainable site and to preserve it as something that kids could go to to learn from, the creeks feed the trees, and they have lived there -- it's healthy, it's perfect right now. I don't know why we would want to

build a disk golf site that has proven degradation to trees. It's killed trees in pease park and we want you to also consider that four million dollars almost was spent for this site, and \$150,000 more will be spent by pard. And they are wanting to do this in-house. Now, they have not been reviewed by the city arborist. These trees do not have protection under the sustainable sites initiative that they are hoping to build under. The planning commission change for the zoning to open space has been endorsed by eroc, but not the disk golf use. Okay? That's important because pard has said that it did. They are tying the zoning change to approval of disk golf. That is not the case. So construction is set to begin after the zoning change because they're saying the zoning change gives them permission for disk golf and they want this place to be completed by spring of 2011. They are in-house and it isn't being kicked to environmental board. We went to urban forestry and begged for help to preserve the trees to get them all tagged because these heritage trees that measure 58 inches, several of them on this site, 58-inch diameter. That's unbelievable. Five people cannot hold hands around this tree. There are several that size. So I'm asking for y'all to really consider this four-million-dollar parcel, \$150,000 to build for a single use 35 acres of our park. Because people have said you can't -- [buzzer sounds] -- do anything else when the frisbee is being thrown on a jogging trail. It's dangerous. Thank you.

>> Mayor Leffingwell: Thank you. And I hope I didn't misunderstand you, but these trees are subject to the heritage tree ordinance. The tree ordinance and the heritage tree ordinance, which would include preservation and protection of root zone areas too. Because it's the parks department doing it doesn't mean they don't have to follow that ordinance. Regardless of the zoning.

>> That's true. We also wish that they would contact -- because there's like possum hall hollies, there's red cedars, these all kinds of other trees we're not sure they place a value on. Do you see what I mean?

>> Mayor Leffingwell: I see. I just wanted to make that clarification. Librado almanza. Excuse me.

>> Mayor and city councilmembers, my name is librado almanza and I've lived in the montopolis neighborhood the past 14 years of my life and I've attended middle school and high school there. I'm a member of the montopolis neighborhood plan and the vargas neighborhood association and poder. I am here to voice my opposition to the moving of the pease park disk golf to the colorado river park. There are five -- there are five disk golf courses that the city of austin owns, that's bartholomew disk golf in northeast austin, mary wright on west slaughter lane, circle c, zilker, and pease park. As you can see the disk golf courses take up a lot of open space. Pease park disk golf will be closed and the focus will be on moving the disk golf to the roy guerrero park in the montopolis community. Sarah hensley parks director stated disk golf and other park activities have overly compacted the soil, damaged tree park and led to unstable creek banks and poor water quality at pease park. Let me tell you, in disk golf there is -- the way you can bank shots, they say, is you would take the disk off and throw it as hard as you can and hopefully you can bank it off a tree and it would make it go the direction you want it to. So we understand why they're damaging the trees at pease park and we would not want that happening at roy guerrero. We don't want that to be the story at roy gairp. We have visited the disk golf courses here in austin. Disk golf is a lot like golf except you throw a disk into a metal chain basket. It's a sport that takes time to play. Each team has to wait until the other team has teed off and moved on to the next basket. You will find that the sport is played mostly by college age students and mostly by caucasians. People are not running from one hole to the next. It is a wait and walk sport. This is why the sport is appealing to college age students. We don't need to spend this money on disk golf when we have so many other needs in the community.

>> Mayor Leffingwell: Thank you. Stephan wray.

>> My name is stephan ray and I also live in the montopolis neighborhood and I'm a member of the montopolis neighborhood plan contact team. I've attended several meetings in which parks has presented their proposed disk golf site, including the parks board. A presentation at the ruiz library and also the bond oversight committee. They have said on several occasions that they plan to follow what are called the sustainable sites initiative recommendations and guidelines. One of the precautionary principles of this initiative is to be cautious in making decisions and note here in red, examine a full

range of alternatives, including no action. Well, we're only seeing a proposal for disk golf on this site. We were told at some of these meetings that pardon did consider other alternatives, they did not say what those other alternatives were. So that would be my first question, what alternative land uses did pard request for this site? Secondly, was leaving the land as a nature preserve ever considered? What's the criteria for a nature preserve? Does the current status of that property fit that criteria? Could that still be considered as a nature preserve? What would be in conjunction with the overall mission of the park. Why didn't pard involve the community and stakeholders to develop a list of alternative uses before coming forward and saying we're going to put disk golf there? Can we step back now and initiate a process to consider a full range of alternatives as opposed to continuing down the rabbit hole of disk golf? Can we back up, look at a full range and move forward? Also the sustainable sites initiative calls for -- that a requirement for this to conduct an accurate and detailed assessment of sites and conditions prior to design to inform conditions. Pard has not conducted a full and accurate detailed assessment of site conditions. Why have they not if they're already moving forward with preliminary drawings like the one you see on this table? Why are they doing that? And how can we involve the city arborists and other arborists and others in the process of doing a site analysis and assessment and have all the facts, then look at alternative uses and then maybe think about disk golf. Finally, they say that the site -- sustainable sites initiative would be a guide for dealing with heritage trees and protected trees. One of them is talking about a radius of two feet from the center trunk per inch of diameter. There's some heritage trees on there that are 58 inches in diameter. That would put that at 116 feet from the trunk. We're talking about things flying through the air. The land development code does not deal with -- there's no provisions for disk golf. These guidelines don't deal with disk golf. How do we establish criteria for protecting the trees? Furthermore, pard is going to be the applicant in the disk golf site plan. [Buzzer sounds] therefore pard cannot be establishing the setback rules. An independent other than pard agency needs to do that.

>> Mayor Leffingwell: Thank you. Next speaker is susana almanza. Same topic, disk golf in montopolis and guerrero park.

>> Good afternoon, mayor and city councilmembers. My name is susana almanza and I come to you today as the chair of the montopolis neighborhood plan contact team. And also to disclose our opposition to moving the piece disk golf course to the roy guerrero park. There was a memo sent to you october the 11th by sarah hensley, park director, and in there she talks about two meetings that were held in montopolis, one august 31st and october the sixth. And she states, when sarah hensley states in her memo that a majority of attendees of the meeting were supportive of disk golf, we feel that this statement can only be made because area residents were excluded from full participation in the meeting. -- Participation in the meeting. So when we look at who was there and these two meetings, the majority of the people were non-residents. They were staff and they were people who did not live in the montopolis neighborhood plan area or the eroc neighborhood plan area and it was later discovered also that a letter was sent from the disk golf association inviting everyone to attend that meeting and try to bring people of color to that meeting because there was opposition from the community. She also stated in her letter another point. She says pard strongly supports the recently acquired property adjacent to roy g. Guerrero park as the location of a new disk golf course. Let's state the real facts. This was not a recent purchase. This land was purchased in november 2007 for 3,000,960 now from a partnership and at that time it was zoned for and rconp, which still has a zoning today. And we all know that if you're going to acquire property you first get the zoning change first and then you acquire the property, yet they left let it stay there for three years without changing the zoning. I can tell you because if they would have had to change the zoning in 2007, they would have had to notify the neighborhood associations and then people would have had a say in what that land would have been used for, especially since it has the housing. Just buying it and not changing the zoning no one knew what was happening so it kind of slipped in under the radar. The montopolis community and other residents cannot accept the pard's decision that the guerrero park is the only location suited for disk golf. We request a full report on all other locations that were considered and the analysis they used to discount those sites for disk golf because they've come and they just do the little powerpoint, we looked at other sites, but this is the best site. Without any analysis, and I guess because we're from east austin we're just supposed to accept that those sites were ruled out without looking at what was the analysis they used. [Buzzer sounds]

we're requesting that also this case go before the environmental board and we ask for your help. Thank you very much.

>> Mayor Leffingwell: Thank you, susana. Councilmember morrison.

>> Morrison: Thank you, mayor. I think that's the last speaker if I'm correct about the disk golf course. Almost. There's one second to last. But I'm going to go ahead and make some comments and I have some questions for staff. One of the things that concerns me most about this issue is the disconnect we have between departments. We have a neighborhood plan that this is going to require an amendment to the neighborhood plan and it really concerns me that we'll have an application from one of our departments, neighborhood plan, that comes with potentially community opposition. I'm also concerned about expenditures on this, when in fact the final decision really has to be the council's decision at a minimum because we would have to approve the zoning change and the neighborhood plan amendment potentially. So I wanted to ask our parks staff if they could give us a little bit of an overview of the plan for having the broader conversation and ensuring that it's really the direction that the council wants to go and when that is going to happen.

>> Okay. We've already met with the neighborhood that is the neighborhood association --

>> could you introduce yourself?

>> I'm kelly snook, assistant director of the parks and recreation department. We've already met with the eroc neighborhood association and they did approve the rezoning to it is not tied in any way to the use of the park for disk golf or any other use. It's simply zoning for parks.

>> I'm not aware of the date that it's been set for.

>> Okay. And so do you foresee any other action required by council for this to go forward?

>> Council has to approve the zoning.

>> Morrison: Beyond that?

>> Once planning commission does that, then it will come forward to the city council.

>> Morrison: And are there any other elements of this -- of a plan for a disk golf course that would come before council like for instance, the construction, the design and construction?

>> If we are extending money certain amounts then through purchasing contracts and types of things like that it would come before council. I'm not aware if it's technically required to go before council for smaller purchases and use of labor in-house. Normally park plans don't -- depending on the type of plan don't come other than through briefings and things like that. We would be happy to do that at any time you're interested.

>> Morrison: Okay. Maybe subsequent to this we can try and put our heads together to figure out -- aside from the technicalities of approvals and all, to ensure that we're really making the decision that's best for the community. I think the questions that were raised in stephan's presentation about the sustainable sites initiative are really key and in particular I'm interested in fully understanding the alternatives. I fully understand that we have a need for more disk golf and we've made a commitment to more disk golf, but I think that making sure we get this right is very important. And I have a lot of discomfort with where we are now.

>> Mayor?

>> Mayor Leffingwell: Councilmember riley.

>> Riley: I want to add a note along -- in a similar vein to councilmember morrison's comments. First I want to thank all the citizens who have called attention to the presence of the -- owe of some very significant trees on this site and all the other ecological things at state. I had the opportunity to tour the site this weekend and was amazed at the trees in particular that we saw out there. They really are stunning. And photos don't really even capture it. They are truly spectacular trees. So we need to proceed very carefully on this with respect to any future use of this site. I am actually glad that we have purchased it so that we can protect the land appropriately. And whatever we do with the land, whether it means disk golf or whatever else, we just need to make sure that we are -- we are being good stewards of that land and acting appropriately with respect to all of the concerns identified in the sustainable sites initiative. So anyway, I thank both staff and the citizens who have spoken today to call attention to these very serious issues. I'll look forward to a continuing conversation about how we can manage this very important site in an appropriate way. Thanks.

>> Mayor Leffingwell: Next speaker is linda messier. Topic is proposed site, which there is none for the homeless rv park in north austin.

>> Good afternoon, mayor, mayor pro tem and city councilmembers. I'm linda messier. I'm a resident of north austin. And I'm also a registered voter in this fine city of austin. The topic today is the proposed site that we've been reading about in the media. For the mobile loaves and fishes homeless rv park. The residents in the city of north austin are concerned. We've galvanized our relationships with other neighborhoods and have mobilized and do protest the use of this site for the homeless rv park. The city has historically set standards for development through its planning efforts, building codes, energy conservation and green building. The city has walked its talk and exemplified these efforts in development of the austin-bergstrom international airport, convention center and city hall. And other numerous city buildings. Regrettably the city has taken a giant leap backward in considering a campground land use for the city owned PROPERTY on McCal la place, a land use that is in complete contribution to the planning efforts and zoning overlay of the north burnet gateway master plan. The proposed use for the mobile loaves and fishes rv and camping cottage campground destroys the credibility of the city's planning efforts, threatens future investment in this vital city tax base as well as in surrounding areas. And violates the intent of the city's north burnet gateway 2005 master plan document, which is ordinance. It clearly recommends redevelop city of austin properties to serve as a catalyst site for redevelopment. And set a precedent for high quality open space for parcels and private public projects. [One moment, please, for change in captioners] those deep ruts, but this issue with these contractors is happening all the infrastructure developments in the city. Now, to make the repairs to this storm water facility, \$150,000. But the bond money that the city requires a developer to put up when they put up the infrastructure is so miniscule it don't come close to covering the cost of repairs. This homes association, they cut the grass so low we cannot keep the sediment from going in the pond. So the pond has filled up with sediment. In the meantime, sediment washes out and builds up on the wash-all. Again, this would not happen if the city inspectors on the jobs, on all the jobs with set there and make them developers obey the rules. As you can see right here in this video -- right here in this picture, this is looking down into the pond. There should not be any sediment or mud down in that area. That's all concrete. It's all filled up with sediment. Again, for the city to repair this, \$150,000, \$200,000. That don't make sense. If they don't get densities on street before they put the asphalt down, put two inches of asphalt, that heavy truck traffic destroys the roadways and who pays for it, the taxpayers. All right, the next subject -- go ahead. Put that next one up. I want to show you all this. I talked to y'all, some members wasn't on council, during the south by southwest music festival 2009 when we had a towing scam going on by an austin towing association member. Now, the police department, detective loser specifically, and enforcement did an outstanding job -- [buzzer sounding] -- on the investigation. Where he was found guilty.

>> Mayor Leffingwell: Thank you, pat.

>> I know.

>> Mayor Leffingwell: You know what it means by now.

>> I know when it means.

>> Mayor Leffingwell: Thank you.

>> I'm all for the disc golf course because I think the park is under utilized.

>> Mayor Leffingwell: Marilyn Jackson speaking on the disc golf course. Not in the chamber? John Hynes. John Hynes. John Hynes is not in the chamber. Those are all the folks we have signed up to speak on citizens communication, so now we can go back to item 75 and begin with the presentation from the law department.

>> Dana Johnson from the law department. Item 75 we're presenting today seeks council's approval of an ordinance that both authorizes a settlement agreement and variances to effectuate the settlement agreement. The lawsuit which was discussed in executive session involves a dam by the plaintiffs in the lawsuit, the Stricklands, and the dam was unpermitted and violates the city's code. The lawsuit will be resolved by this settlement whereby the dam will be removed and the site restored, but the restoration work for the removal of the dam requires variances so item 75 seeks council's approval of these ordinances, approving a settlement and authorizing the variances. And the law department recommends that.

>> Mayor Leffingwell: Questions for staff or entertain a motion on item 75?

>> Cole: Move approval, mayor.

>> Mayor Leffingwell: Councilmember Cole moves to approve the settlement and variances in item 75, seconded by councilmember Spelman. Discussion? All in favor say aye.

>> Aye.

>> Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0. Those are all the items we can deal with on the agenda. Council, without objection, we are in recess until 2:00 p.m.

>> We are out of recess. We'll begin with our 2:00 zoning cases.

>> Thank you, mayor and council. Greg Guernsey. Let me walk through the 2:00 p.m. zoning. These are items that public hearings are open and possible action may occur on these items. The first item I would like to offer for consent postponement is item C14-2010-0063, Linda Vista Drive. The applicant has requested indefinite postponement. This will require additional notice before we could schedule this item back on your agenda, and that would apply to all items on the p. Case 77, C14-2010-0064, Linda Vista Drive. This is also applicant request for indefinite postponement. Item 78, C14-2010-0065 for 10707, 10805, 10901 and 11001 Linda Vista Drive. Indefinite postponement by the applicant. Item 79, C14-2010-0066, for properties located at 10501, 10507, 10605 Linda Vista Drive and 6807 South FM 973 Road. Indefinite postponement request by the applicant. 80, C14-2010-0174, 11206 South IH-35 Service Road and southbound 11301 Old San Antonio Road. We have an applicant request for postponement till your JANUARY 27th, 2011 MEETING. I think he originally REQUESTED THE 13th. I know the 27th is a much BETTER AGENDA THAN THE 13th. So it's January 27, 2011. Item 81, C14-2010-0062, for property located at 6001 Elroy Road. Applicant is requesting indefinite postponement of this item. Item number 82 and 83 are related. These involve the Cristo Rey Catholic Church. 01, 2110 East Second Street. This is a staff postponement of this item till your February 10th agenda. A related item, number 83, case C14-2010-0135 for that same property on East Second Street. Staff is requesting postponement to your February 10th agenda. Item 01, T-bown and 2005 Chicon Street in the upper Boggy Creek neighborhood plan area. The applicant is requesting indefinite postponement of this item. That's an indefinite postponement of item number 8. Related item, 85, Qen 0127, 2001 and 2005 Chicon Street. Applicant is

requesting indefinite postponement. 02, 2007 chicon street. This is also in the upper boggy creek neighborhood and applicant is requesting indefinite postponement of this item. The relate item is c14-2010-0136, a zoning change located at 2007 chicon street and the applicant has also requested indefinite postponement of this item. Item 88 is case c14-2010-0190, for the property located at 1807 west slaughter lane. Staff is requesting postponement of this item to your january 13th meeting. Item number 89 is case c 14 h-2010-0021 at 3808 avenue h. This is a zoning change request to family residence, historic landmark, neighborhood conservation combining district or sf-3-h-nnccd. The planning commission was to grant the district zoning.

>> Shade: Can we have the historic -- I think there's three homes. I think the fourth one you are going to tell us is postponed.

>> Yes.

>> Shade: Is the the appropriate time?

>> Mayor Leffingwell: We will pull -- we'll pull 89, 90, 91 and 93, I believe, is scheduled to be postponed.

>> 93 Is the hyde park local historic district and I'll get to that in a moment. Item 92, c 14 h-2010-0039. Planning commission postponed this item till next year so they postponed it their january 11th meeting so staff would suggest postponement of the item to your january 13th meeting. The owner of the property was trying to be here this evening and was not -- or this afternoon and was not able to be here, but would certainly agree to postponement until next year until the 13th but would really like to have the case heard on the 13th and not be delayed again. The last item is discussion, 93, c 14 h-2010-0019, hyde park local historic district and that will be a discussion item for you. That concludes the items I can offer for consent.

>> Mayor Leffingwell: So the consent agenda for those items we've yet to hold a public hearing is to postpone indefinitely items 76, 77, 78, 79. POSTPONE UNTIL JANUARY 27th, 2011, Item 80. Postpone indefinitely item 81. Postpone item 82 and 83 until FEBRUARY 10th, 2011. To postpone indefinitely items 84, 85, 86 and 87. Postpone item 88 until JANUARY 13th, 2011. And to postpone item 92 until JANUARY 13th, 2011. And that is the consent agenda. En a motion to approve. Motion by councilmember spelman, suspected by the mayor pro tem. Any discussion? All in favor? No? Passes on a vote of 6-0.

>> At this time I would like to introduce steve sadowsky and he will present the historic items on your agenda.

>> Mayor Leffingwell: Okay. mayor, mayor pro tem, councilmembers. Steve sadowsky, planning and development review. Our first case, number 89, is the olson-foster house. This is a 1934 tudor revival house. This was built by the developers of shadow lawn. The house was purchased by olson, who was from a prominent swedish county in travis county. They moved into town, raised their family here. After he passed away, his wife esther remained in the house and then they sold the house foster and his wife anna nellie foster. foster ran the mercantile company on sixth street. An interesting thing about it is that he originally came from north carolina. He walked to austin from san antonio in 1939 to open up this business. So he had a real drive to get here, I guess. His wife, anna nellie foster, was originally a joseph. Along with several of her sisters who continue to live in this neighborhood, this was the hub of the lebanese-american community for the years that the fosters lived here. The house is a wonderful example of tudor revival cottage. It's a style that is relatively rare in austin. It was designed by shipe and sons to be a model basically for what shadow lawn has become and is associated with the olsons, a prominent swedish-american family and liz foster was a prominent member of the lebanese-american family.

>> Mayor Leffingwell: Questions of staff? Note that councilmember spelman will be recused on item number 89. Councilmember shade.

>> Shade: Can you tell me, we recently passed a different house in a different part of town but that was the hub of the lebanese community, if i recall. Can you give me some idea of the comparison here?

>> Well, the other house was the john house, and it was -- the basis for that designation was its architecture. It was unique mediterranean architect revival. john also was a member of that first generation of lebanese-americans who set up shop on sixth street and developed their community and the marini tax exempt ete-catholic --

>> Shade: And on the -- on the architecture style again, it's always hard because there's a subjectivity here and it's a beautiful home, you know, obviously the owners have taken great care of it, but it's a wonderful example, sit the best example? How does it fit into the inventory?

>> It -- well, it's not your typical tudor revival in that it is rather restrained. It has the steeply pitched gables which tip phi --

>> Shade: So we have better examples of this type of style?

>> Tudor revival encompassed a lot of substyles during that -- we don't have any others that are in this particular substyle but we have quite a number of tudor revivals.

>> Shade: Is this part of the hyde park that will be part of the historical district we'll be looking at later today?

>> Yes, it is.

>> Shade: What is the tax abatement and appraised value of this home?

>> The appraised value is 431,394, and the estimated city tax abatement work 1158.

>> Mayor Leffingwell: Questions from staff? Councilmember riley.

>> Riley: This is an interesting situation that we have this house in the historic district coming to us on the same day as the historic district itself. Just so we can have a good understanding of the way those two different tools would work, can you -- can you explain -- suppose in the future that this were -- this were considered a contracting structure within [inaudible] as opposed to [inaudible]. Can you explain how the protections, how those two different sets of protections mechanisms would apply, for instance, if a future owner came along and wanted to tear down this house and put up something completely different, how would that play out under the two different scenarios of either being a landmark or being in an historic district?

>> Well, it would -- on demolition, basically you need a certificate of appropriateness for both. In an historic district you need a certificate of appropriateness or demolition but also need one for a landmark to remove [inaudible] in both cases as well. The difference really is for building permits and alteration because the local historic district has a set of design standards that accompany it, but they are less restrictive than the secretary of interior's standards that we apply for historic landmarks or to historic landmarks. So being a designated historic landmark would have a higher degree of responsibility as far as cure rating and preserving the historic elements of this house. That is something that, you know, that contributing to an historic district has some of those aspects than what would apply to an historic house.

>> Riley: Thanks.

>> Mayor Leffingwell: Further questions? Do we have anyone to speak for the applicant or are you -- are you signed up? Are you the applicant? Yes. Come on. You can have up to five minutes and introduce yourself.

>> Yes, sir, I'm Frank Wiles with Dell Computer, I run our emerging marketing strategy for Dell. In terms of the home itself, I spent quite a bit of time in terms of research around how it plays not just into the architectural integrity and the character behind it but how much it tied into the neighborhood fabric. There were four sisters, the Joseph sisters who lived on Avenue H who were very much tied into that Lebanese community like Steve mentioned earlier. In terms of the fact it helped BUILD IN THE EARLY 30s AND 40s, TIED VERY MUCH INTO THE Fabric of the neighborhood, Hyde Park as well as the shadow lawn area and more specifically around the architectural integrity being one of very few revival Tudor homes within Hyde Park as well as the shadow lawn, it's very much unique.

>> Mayor Leffingwell: Councilmember Shade.

>> Shade: I said this earlier, I didn't know you were here and you were the owner. It's a wonderful house in a wonderful neighborhood. If a fellow citizen were to ask why should they be paying for this tax abatement, how would you answer the question? What's the public purpose you are serving.

>> The intent is take the funds and restore the home to its originate. Not just the original design but also small architectural details. Things that have been overlooked since the home has gotten older, we would like to funnel that back into the home to have that serve as one of the few examples of Tudor revival architecture not just in Hyde Park but in Austin.

>> Shade: And how far away are you from having that work completed on the house? Sit already in a state where it's --

>> It's an ongoing process. Because so much of the home is aging. Everything from both on the exterior, shutters, windows, trim, but also on the interior, the electrical and plumbing needs updating to maintain stale elements.

>> Shade: How does it play into the local historic district, in your opinion?

>> [Inaudible]

>> Shade: I mean I guess when you talk about supporting the fabric of the community and the standard of the local historic district -- what I'm trying to figure out is with or without this designation, how will your house change? Especially knowing that we're going to be looking at a local historic district for this neighborhood.

>> In my mind, again, it would be taking the tax abatement and being able to pour it back into the home which I understand is at a higher level [inaudible]. So everything from maintaining exterior and updating landscaping, going back with what it looked like when it WAS IN THE 30s.

>> Mayor Leffingwell: Okay. We have no one signed up to speak so a suggestion or motion on item 89. -- Discussion or a motion on item 89. Councilmember Morrison.

>> Morrison: I would like to make a motion that we approve this on all three readings. I think that, you know, it's a little bit different because we're working under the criteria that we don't usually work under as pose to do one particular person, if I'm correct, and little a specific example and this is going to, Sadowsky mentioned, this is going to ensure a higher degree of preserving the architecture. So I think with that, and certainly -- certainly I know the cost of maintaining -- maintaining with integrity for the historic nature of something is expensive so I understand your points there. With that I would like to make that motion that we approve on all three readings.

>> Mayor Leffingwell: Motion by councilmember Morrison to close the public hearing and approve item 89 on all three readings. Is there a second? Councilmember Riley.

>> Riley: Yes, I'll second that and if I could very briefly to that.

>> Mayor Leffingwell: Seconded by councilmember riley. You have the floor.

>> Riley: I would note that we have an owner who has invested their effort into the house and operating under the rules we have in place today and out of respect for all that effort and the fact we have a process that exists today, I am going to support this. But as a premise of the motion, I would just note as I usually note when we talk about historic zoning cases specifically that we are in a process of reexamining the benefits that we accord to historic landmarks, and I would expect that process may well result in an adjustment of those -- those benefits in such a way that they may well-bear a lot more resemblance to the benefits we currently associate with historic districts. So I think we need to be clear about that, that getting a landmark today wouldn't necessarily mean the benefits available today would continue into the future, they would be adjusted. But based on where we stand today, we don't currently have an historic district, we do have a set of rules and we have a recommendation from both the landmark commission and the planning commission and staff and out of respect for that existing system that we have and the efforts that the owner has expended on this historic asset, I'm going to second the motion.

>> Mayor Leffingwell: So I'll just say for myself, I'm not going to support the motion. Of course, it's a very nice house, but in my opinion not unique and historic in an area that is soon to be an historic district will about afford a lot of protection in the future. I understand the need of older houses to upgrade and remodel, but there are houses all over the city that are going through that process that don't have the benefit of this designation and have not had. So I just don't feel that it meets the standards for historic designation so I will not support the motion. Councilmember shade.

>> Shade: I'm going to be joining the mayor in not supporting the motion, but there's so much subjectivity to this. We see it in a lot of houses and I think we need to be very judicious in the ones significant enough for this type of designation and I appreciate the work you are doing, but as the mayor said there are people all over the city who are putting in work on older homes in neighborhoods throughout and I think it's significance of the association and the architecture isn't great enough, it's hard to make a case citywide for the special designation. Again, I appreciate the work you are doing, I don't want to disregard the beautiful house you have, but I just can't support the motion.

>> Mayor Leffingwell: Not unless someone asks you a question. Councilmember cole.

>> Cole: I will ask you that question. What were you going to say?

>> Well, I was curious what that threshold for architectural significance is. Because if this home, for example, represents less than 2% of the architecture in all of austin, for example, I've actually done just in terms of going around to specific neighborhoods to better get a sense for what percentage or what aspects of the homes in austin are tudor revival, and it's less than 2 or 3%. It's a very small number. So one coupled with the location, coupled with the architectural significance, coupled with the history of the home and the families that have lived there, there's only been three owners throughout the entire 75 years. So in my mind, I just want to be clear on what bar we're setting around that architectural significance.

>> Cole: Mayor, I understand the ambiguity in a that time and we can direct staff to further try to define it in the process that we're going through to be clear on what our landmark status will be. But I appreciate the need to have preservation of historic structures and I appreciate the need to have that all over town. And we have a particular absence of that in east austin. At the same time, I recognize that every time we make a decision like this, we are impacting the amount of funds that are coming into the city and placing a preference on one particular taxpayer for one particular amenity that they are offering to the city. And that is a heavy burden because we have a duty for [inaudible] and so that we can't do that in an arbitrary manner. And we're trying to not do that and be able to explain not only to you who have invested considerable sums in a home, but also to the public in general because that's who we answer

to for taxpayer dollars. In saying that, I will not be able to support this designation at this time.

>> Mayor Leffingwell: Councilmember shade.

>> Shade: Just to further answer your question too, i think it's very subjective and I think that the process that the commission is going through right now is to talk about what is highly significant, you know, a better way to -- and if something is endangered, there's a lot of subjectivity there admittedly.

>> Mayor Leffingwell: Further comments? All in favor of the motion say aye. Opposed say no.

>> No.

>> Mayor Leffingwell: The motion fails on a vote of 2-4. With councilmember spelman off the dais and mayor pro tem martinez, councilmember shade, myself and councilmember cole voting no. So the application is denied.

>> Thanks.

>> Mayor Leffingwell: Item 90. And we do have a speaker on that.

>> Could councilmembers, item thompson house, 1507 wool ridge drive. Built in 1937. It's a designed by roy thomas. Very prominent austin architect, and it is an excellent example of colonial revival style. This house contains all the classic elements of colonial revival. The segmental arch and plastered entryway, symmetrical facade, two stories, five gables. The house was built in 1937 for paul and bess thompson, and professor thompson came to austin from missouri in 1919 to teach advertising at u.t. He was then instrumental in the reestablishment of the department of journalism at after governor ferguson cut off the funding for it and under his guidance and leadership the department came a school of journalism and became a role model for standards of excellence for national journalism school accreditation. It was under his leadership the daily texan was established and grew into the student newspaper that it is today. The thompsons lived here until 1966. The current owners purchased the house in 1995. The house is in its original condition. It's an excellent architect designed example of colonial revival associated with the man responsible for establishing the school of journalism at u.t. So staff, landmark commission and planning commission have all recommended this house for historic zoning. The appraised value of this 251 million and the estimated city tax exemption would be 2,633.

>> Mayor Leffingwell: Questions of staff? Mayor pro tem.

>> Martinez: Is that the show " it brought back memories. I used to watch "eight is enough" when I was growing up. That looks just like that house. That's significant. [Laughter]

>> Mayor Leffingwell: Do we have any real questions for staff? Councilmember shade.

>> Shade: So again, trying to use things like it's excellent or textbook, how many of these do we have in our inventory and in that area of tone.

>> This is in pemberton and we do have a number of colonial revivals. We have have you few that are this pristine and architect by roy thomas. While he was very prominent in austin, he didn't design very many houses in pemberton. There's a large number of colonial revival houses in austin in general. This neighborhood has quite a number of them as well. We have in our landmark inventory have I think about 30 colonial revival houses.

>> Shade: And is the owner here?

>> Yes.

>> Shade: I guess the question that I was going to have was sort of what extent is it for tax relief on this house? Can you address that or the owner?

>> Mayor Leffingwell: He will have an opportunity.

>> Shade: Oh, okay. I'll wait.

>> Mayor Leffingwell: Anything else? Okay. The applicant is entitled to speak if you like. And we also have Suzanne Deiterich. Are you speaking for the applicant, Suzanne? If you are the applicant, you can introduce yourself and have five minutes. Please give your name to the clerk.

>> Good afternoon. My name is Mike Waynard. My wife and I own the home that's in question. We as the previous speaker mentioned, we've lived there for 15 years. Previous to that we lived in several other homes in the neighborhood, so we've been in that neighborhood for probably well over 25 years. I'd be happy to answer questions. We have worked diligently to maintain the house in its original condition. We've gone through two renovations of the home where we worked on the interior and the exterior, but we have not touched anything on the front from its original condition. It's a beautiful home. It was very well built, very well designed. We appreciate the opportunity to continue to maintain it in that condition. Addressing your question about tax relief, it would probably be very difficult for anyone that lived in that neighborhood to sit up here and say they had to have tax relief. The designation would certainly help us or anyone else with the ability to continue to maintain that kind of home in the condition that it is without making some kind of changes that would -- that would possibly make it more cost effective. You know, it does have exterior wood, the original windows from the house when it was built, single pane windows, so it is more expensive to operate on a continual basis because utility bills are higher if you took those windows out and took in pane. But that's a choice that we make. You know, we didn't have to do that. We chose to do that because we like the home, we like the architecture, we like the way it looks. And that's a sacrifice that we make that's an ongoing sacrifice on a continual basis along with repainting the wood. We can take the exterior wood off and put something else on that wouldn't be as expensive to operate and maintain on a routine basis, but we voluntarily chose to do that. Questions?

>> Shade: There have been a number of additions and the windows have been replaced, it says that in our report. Kind of talk how that's gone. There have been several additions what. Is the thought process that you go through in terms of, you know, like the work you did in 2009 and the windows replaced. You actually thought we're going to be applying for historic zoning or decided that --

>> when the home was originally built, it had two bedrooms and one bath upstairs. Over time, even prior to us, there was another bathroom added upstairs and the porch on the exterior was enclosed. And that after that, over the top of that porch, another bedroom was added on the top. The -- originally this home, the lot for this home was part of the adjacent house immediately to the east of this, which is an historic home that was owned by Josephine Fisher, who was the wife of the original developer of the entire subdivision. There was a building on our lot that was the original garage for that house. So it's a -- you know, it has on convoluted history. And, you know, our driveway access to this house is in the rear, which was originally the access to the Fisher house adjacent to us. You know, the house has been renovated on the interior with updated bathrooms and kitchen, but all that's been done in a way where the exterior is still maintained in the condition that it was originally. And all of the front windows and the side windows are the same as what they were when the house was originally built IN THE '30s AND ORIGINALLY Designed by the architect.

>> Shade: It is a beautiful home.

>> Thank you. We're privileged to be there.

>> Mayor Leffingwell: Just so there is no misunderstanding, the purpose of this program is not provide tax relief. It's preserve historic buildings and provide for their --

>> I understand.

>> Mayor Leffingwell: I just wanted to make sure because that was talked about a little bit.

>> That's why we did what we did.

>> Mayor Leffingwell: We have one speaker signed up to speak. Suzanne deiterich. Did you want to speak?

>> Thank you, and I'll be available for any other questions if you have them.

>> Mayor Leffingwell: You have three minutes. mayor and members of the council. I'm suzanne deiterich, agent for the paul thompson house. The packet that is available from the historic preservation office for landmark designation outlines the criteria to be considered. It states the property must be 50 years old and maintain sufficient integrity of materials to design -- and design to convey its historic appearance. The property must also be significant in at least two of the following areas: Architecture, historical associations, archeology, community value, and landscape features. The paul thompson house was designed noted architect paul thomas. It's 73 years old and has maintained its historic appearance. The historic landmark commission voted unanimously as did the planning commission. Paul thompson was called the godfather of journalism. His pioneering efforts led to the school of journalism at the university of texas and he served as the head of the school for 30 years. Paul thompson house clearly meets the city's criteria for historic zoning in the it is over 50 years old, it has maintained sufficient integrity of materials and design to convey its appearance. It is significant in its architectural style and was designed by noted architect roy thomas. The plans at the house are 's school of architecture. And paul thompson, his creation was the school of journalism at the university of texas. Thank you for your time and I'd be happy to answer any questions.

>> Mayor Leffingwell: Thank you. Those are all the folks we have signed up to speak so I'll open for discussion or motion on this item number 90. Councilmember spelman.

>> Spelman: We've seen a lot of cases from this part of town, and they are all nice houses. They are all built by distinguished architects and kept in pretty good shape and I'd like to keep all of them around in pretty much the same condition. Some of them I voted for, some of them I voted against for any historic property designation. This one I would like to vote for, and the big difference between this house and other houses that I voted against is the historic significance of the person who was its first owner. As is in the record, paul thompson took a nondepartment of journalism, we didn't have one and it was demolished by our ma ferguson, created it from scratch and turned it into a school that is one of the finest schools of journalism in the country. That's no means [inaudible] significant importance that we ought to honor that by giving historic significance to this particular house. So mayor, I move approval of this item.

>> Mayor Leffingwell: So does that close the public hearing.

>> Spelman: And all three readings.

>> Mayor Leffingwell: By councilmember spelman. Is there a second? Seconded by councilmember cole. Further discussion? All in favor motion say aye. Opposed say no. Passes on a vote of 6-1 with councilmember shade voting no.

>> Councilmembers, number 91 is the bouldin-blum house. It was originally build by the bouldin family. There are no bouldin homes remaining associated with this family. They built this for a grandson of colonel bouldin, arthur terrell, lived here for only a year or two and then the house became a rental unit after that until about 1911. The house was originally at 1312 south first street so it's basically where the parking lot for el mercado is today. And in 1998 this house was threatened with demolition. In

agreement between the property owners and the landmark commission came to true is going to and they moved to house to its current house, still in the bouldin addition. So it retains its historic context and it is at the corner of south second and west marys street. It's vernacular victorian. No architect involved, this is a popular and now increasingly rare style in austin. But it typifies the middle class housing stock of the late 19th century. The house was -- I'm sorry, around 1930, edgar and maddie blum moved into the house, they eventually bought it and operated a mom and pop grocery store. There's an article from the statesman in your backup this was one of the best things I've read because neither one of them had left the state. I think he had once, went to oklahoma and was glad to be back in texas. They were very hometown people, operated their grocery store, and it was one of the last mom and pop grocery stores left on south first when it came down and they went out of business and the building came down. As I said, this house was --

>> Mayor Leffingwell: That was crumley's grocery store.

>> Yes. Actually there was one just in the next block out of there too. But south first street used to be loaded with these outline mom and pop grocery type stores. In 1998 the house had deteriorated to a great extent. The owners were a holding company out of california. They wanted to demolish it. It was moved to this site and restored. The house is significant for its architecture, rare surviving example of this type of vernacular victorian. It's associated with the bouldin family, and mom and pop grocery store that was one of the longest running on south first. So staff, the landmark commission and the planning commission have all recommended this for landmark designation. The value of this house is 377,780, and the estimated city tax abatement would be 1,086.

>> Mayor Leffingwell: Questions? No one has signed up to speak on this item. So the floor is open, council, for comments or a motion. I'll just say -- obviously I'm not going to make a motion, but this is one of those cases I think that very clearly in my mind deserves historic designation not just because it's in my old neighborhood when I was a kid, I don't live there anymore, but it is a very, very old house. It appears to be structurally in good shape, and this is the type of house that is really in danger of being demolished. This is the purpose of the program to me, take a house that is kind of marginal and has historic value, we want to see kept, but financially it's not a viable proposition without historic designation program. So if there is a motion to approve historic designation, I will support it. Councilmember spelman.

>> Spelman: Move to close the public hearing and approve this item on all three readings with the following I notice it was a grocery and feed store in 1912. Is that when you used to start going there? [Laughter]

>> Mayor Leffingwell: Yeah, I was in third grade at the time. [Laughter] motion by councilmember spelman to close the public hearing and approve historic designation on all three readings. Is there a second? I will second. Councilmember shade.

>> Shade: I was raising my hand to second it but I'm going to vote for it for the exact reasons you explained, and it is, again, this is a really hard process, i appreciate the work that I see committee members here in terms of there's so much subjectivity that I think this one meets the standard and definitely is at risk. And I -- and so I'm going to be happy to be voting for this one.

>> Mayor Leffingwell: Motion and second. Further discussion? All in favor say aye.

>> Aye.

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

>> Thank you.

>> Mayor and council, item 923, this is the hyde park local historic district. At your last meeting on

DECEMBER 9th, WE CONDUCTED A Public hearing and had a staff presentation on this item. The item was approved on a vote of 6-0 with councilmember spelman recusing himself. At that time the council approved the planning commission recommendation with the exception of an amendment by councilmember riley regarding doors, the requirement for doors within the design standards. Additionally the staff directed -- sorry, the council directed the staff to meet with both sides on this issue and have a meeting to try to bring together to achieve a compromise on the proposed design standards. The staff did have a meeting on december 7th e present including steve sadowsky and myself. The meeting was very eareed to -- wcaa agreement on nine changes to proposed design stas. Ose are in yo backup and also the hard copy I placed in front of you on he dais. There's one issue we couldn't come to agreement on and that was what to do with homes that had two front doors, whether there be a requirement to maintain two front doors or go to the landmark commiss inmeeting, we have also received a peinopsitivlthee's six votes uld be r pass the item odroday, however, if ere re a motion to apprn seco and motion would be with theopostandard agreed to at the december 7th meeting that are dated december 9th as opposed to the design standards approved on first reading. With that I'm avfo QUESTIONSngll: Questions fostaff? We do have a number of speakers signed up. Councilmember riley.

>> Riley: Jerry, could you clarify where we are on the issue about the two doors? What's the staff recommendation on that?

>> Sure. The issue was -- there was actually a resident there who had a house with two doors. It was actually two front doors. My understanding, this is not my area of expertise, but historically it's a style of house that had two front doors. One of the doors goes to a bedroom which was intended for a renter, the other door goes to the main house into the living room. This person stated she didn't feel safe with that second door that went straight into her bedroom and she wanted to take it out at some point in future and have it go away. Right now because that is the historical tradition to have two front doors, that would be possible to remove that second door but it would require a certificate of appropriateness from the landmark commission. Her desire was to have that be just not requirement to get a certificate of appropriateness that you could just do thatrighau to change it. You could nail it shut or do whatever. There's no a requirement that it be operational but a requirement to maintain the two doors.

>> Riley: In terms of appearance.

>> Exactly.

>> Riley: There was some discussion about fees associated for certificate of appropriateness. In the future -- first, is there a staff recommendation with respect to this issue?

>> At this time there's not, but we actually need a little more time on that. We would request that you give us a little more time and we would like to bring back -- basically it would be a budget amendment.

>> Riley: Setting eye side the fees for a moment, on the substantive issue about taking out an historic door should require a certificate of appropriateness, is there a -- [inaudible] standards?

>> Hold on a second.

>> There's been some discussion as to whether we should require fees for projects that don't require a building permit. So the fee would apply if a building permit is required, but, you know, if it's a door replacement or window replacement or something like that, it seems a little aggressive to charge [inaudible] fee for sometng like that when they don't even have to get a building permit. So we are still in discussions as to what types of projects would require a fee and which wouldn't.

>> Riley: That's ongoing. How about on the substantive issue about certificate of appropriateness should be required in regards to the decision to take out the historic door. Is there a staff recommendation on that? I understand there's a live issue. Is there a staff recommendation on that?

>> Staff would recommend a certificate of appropriateness be required.

>> Riley: For the removal.

>> It is an exterior change.

>> Riley: Staff recommends we do require certificate of appropriateness, staff is continuing to look at the fees associated with the certificate so we don't know for sure today if someone were in that position whether they would need to pay a fee in the future to apply for a certificate of appropriateness. Got it.

>> The other thing, councilmember, keep in mind that many certificates of appropriateness can be administrative approved as we do have authority to approve those, so we're not talking about a month-long delay to go to the landmark commission on these projects.

>> Riley: It may not necessarily be a long process and may not entail a fee.

>> Right.

>> Riley: Okay. Thanks.

>> Mayor Leffingwell: We'll go directly to our speakers. First, laurie weidlich. Did I say that right? Correct me if I'm wrong.

>> Weidlich.

>> Mayor Leffingwell: Weidlich. If you say it, I will too. NEXT IS karen McGray.

>> It's been a very busy month for us. We took your mandate very sufficiently. We had a number of meetings and conversations between people for the district and people against. Many were private and then we had the city meeting that jerry described. We publicized it very heavily including sending fliers throughout the neighborhood so that people who weren't blank [one moment please]

>> if you can envision a house with two front doors and two front windows and you pull out a door, you've really changed the character of the house. I think that's an important thing. And if we start to relax these rules anymore we won't have an historic district. So I think we're here and i think it's time and it would just be great if you could go ahead and adopt this today. Thank you so much.

>> Mayor Leffingwell: Thank you. David conner and next will be

>> good afternoon, city council and mayor. I'm not going to repeat anything. I sent an email to you yesterday on the current -- there is misinformation being sent to the neighbors about any changes to the exterior. If I had to approve anything, we'll be nonbinding. So appreciate your vote today.

>> Mayor Leffingwell: Thank you could ask but you probably wouldn't get it. Lynn team, carolyn grant will be next.

>> Good afternoon, mayor and council. I'm lynn team on behalf of the heritage society of austin. We have spoken to this before. We are ot close and let people get on with their lives in the hyde park neighborhood and hope you will support it. Thank you.

>> Mayor Leffingwell: Thanks, lynn. Carolyn grimes.

>> Hi, I'm carolyn grimes, 4009 avenue g. I'm a member of the design standard team and have been since 2007. We have worked very closely with a lot of different neighbors. We've debated about a lot of

different issues from things that people were very serious about from a preservation standpoint to people that were very serious about an aesthetic design standpoint, and we really have tried to come to a medium of that takes into consideration the character and designing features of an historic property and at the same time to provide a lot of flexibility and creativity for the hyde park resident who has a mind of its own about how they want to decorate their homes. So we hopefully have come to a happy medium here. So please help us to preserve the character of our neighborhood and to help us resolve this issue. Thank you very much.

>> Mayor Leffingwell: Thank you.

>> I'm dorothy richter. After all the years of work on getting all the necessary data for the historic zoning, after all that work, this flier was distributed in hyde park, and that's when the wheels came off the cart. This flier quickly spread perritis because they didn't want government telling them what to do. It's basically not the design standards that they want, they want -- they don't want an historicttellingthmdw, e a not thinking aot an hitoricroesd without it, their neighbors can do what they want to do which might not be what everybody likes in hyde park. And with the 20-year proposal of how hyde park and how austin is goingto grow, much of that density is going to be put in central city, which is hyde park. And so now is the time to preserve a unique historic subdivision, a village in the city, historic, to preserve it. Thank you.

>> Mayor Leffingwell: Thank you. Now we'll go to s signed up against. Florence gills. NEXT SPEAK mike McHone. And miss city clerk, could you move lawrence guild to donating time to chris kirk? Thank you. mayor, members of council, unfortunately it's fallen to me to remind thaw we have a valid petition against what is on the dais today. Unfortunately the mortgage of people who have signed up -- the majority of people who have signed up do not know what the compromises have been. I've lived into hyde park, moved houses into hyde park and restored them and I have private restrictive covenants restricting the demolition and changing of those. This is a way of doing things through deed restrictions and not needing the requirements of an historic district. I'm only here today to say there is a local historic district that can be created in hyde park, but it needs to go back to the people who originally signed the petition with all the knowledge of what is in the current proposal and also an understanding of what happens when an historic district is created. Specifically those requirements in chapter 25-11 concerning article 4, the special requirements for historic structures and contributing structures in a local historic district. Those requirements are extensive and people who are property owners need to know about those prior to being -- signing up for a local historic district. What happened, in my opinion, is that the shoulds became shalls and the requirements became too onerous and people are not informed enough to make a valid decision and i think we need to go back, there is nothing pending, another month to look and renotify everyone of what the current proposal is would be fair to all the property owners in hyde park. And I believe that you should honor the petition to do that and send out a new set of regulations that are proposed as was worked out in december and also follow the recommendations that the speakers who will follow me concerning the specifics that they would recommend you do prior to adoption of this ordinance. Also would like to -- getting the valid petition was an effort of an ad hoc group of homeowners that were concerned and went around and were able to gather signatures, and for those people who were not at the meetings, we need to respect their property rights and support the petition, and I hope that we have at least an opportunity to go back and revisit this process, and i would urge the council to postpone this action until such time as that takes plagues and we get the council -- place and get the questions council is raising answered before we go forward.

>> Mayor Leffingwell: Thank you. Next speaker is michael nil signed up against. Michael nil. You have three minutes. mayor, members of city council, I'm new to austin. I moved here in july and I'm new to hyde park. And I've really tried to do my best in the six months that i have to get a handle on what is happening in hyde park and the historic district. I've gone to three of the six neighborhood meetings, association meetings, and all I have to say is it's good that I'm retired because this has really required a lot of my attention and time and i know a lot of my regular neighbors don't have that kind of time. I am not opposed to an historic district at all, but the current document I think has a number of problems with it. First of all, I think that the document that is presented NEEDS TO HAVE ALL THE Is DOTTED AND

THE Ts CROSSED And all the legal aspects taken under consideration. My understanding and I think others will speak to this, there's an ordinance that's conflicting with the current proposal. Also, I think the survey needs to be in place of the houses, contributing structures. It needs to be well known and it needs to be accurate and there needs to be wide knowledge what's in the plan and wide support. In that is last parts, I don't think these exist. I almost know nobody in hyde park. Two people I spoke to in my block haven't a clue. First person I spoke to, well, it was a good idea in the beginning but it's gone way overboard. Are you contributing structure? Well, I don't know. How do you find out? So we shouldn't be, they said, because our house was moved there 15 years ago. So I said, well, I think I can get to it. Let me check. Okay, so I check for them. They are a contributing structure where they shouldn't have been a contributing structure. Now I understand that will be fixed, but then I started to look at it a little more carefully and I saw there are a number of errors, not architectural errors butter -- but errors in the survey. And wide knowledge, spoke to another neighbor, I d't have time to do this, I don't know where we are, I'm frightened. Hey, to me, the cautious approach here is to step back and say let city council, not the neighborhood association, send out the information to all the constituents or the owners and so that theyve time to review and this has not happened. This has really not happened. As I said, I'm very new. I've spent a lot of time on this. I'm very uncomfortable even though the proposal as it stands now, most of it I agree with. Thank you.

>> Mayor Leffingwell: Thank you. And now we have just recently had someone signed up in favor. I'm going to go ahead and let them speak now and then we'll continue with those signed up against. Michelle paris. Good afternoon. I spoke last time about being in favor of the local historic district and how I had worked on it. When the oppositio quotes, posed their argument they posted on the list serve about somebody upset, worked hard and had experienced tremendous acrimony from the neighborhood. That was my post. What they failed to continue with I said in might spite of that I support the local historic district and yes we have problems with the neighborhood association but i am in support of the -- sorry, I just ran in here. What has happened is so many groups have come together as individuals, smaller groups, larger groups, and I feel like we've moved so far beyond that acrimony and we are working in concert with one another and now we have a document far superior than what we had originally and the various incarnations since. I think it is because we had this strife in the neighborhood that people became motivated to work harder to create a better document. I know so many of us on this side whether they are part of the neighborhood association or not have felt that they have learned and gained greater perspective on a broader group in hyde park. So at this point it's clear that with more input we will always create a better document. The more people that become engaged with this process, the better it will become and that will be an ongoing process. At this point I think we need to pass the local historic district, however, I believe it is incumbent on the city to figure out a way to amend items in the various local historic district design standards pretty easily. It shouldn't have to be an arduous process. So it's incumbent upon the city to help us and the other local historic districts to figure out how to do this but at this point delaying the passage of this will make a better document, maybe something will be clearer and that could go on and on and in the meantime we lose homes along the way. Thank you.

>> Mayor Leffingwell: Now we'll go back to those signed up against. Chris kirk is signed up neutral. Chris kirk. You have six minutes.

>> Could we restart when my point comes up? There we go. I mainly want to talk about how to improve this process in the future, but first things first. I would like to start by acknowledging that the design standards that are before you today are in fact much improved compared to those at the last public hearing. And I want to publicly on my laurie widelich to work with all sides on this issue and come to some sort of accommodating compromise for the varyings opposing points of view. She has really been bending over backwards in my experience. Why would you want to improve the process? The current process is in shambles and if the city wants to avoid a repeat of the divisive events that have happened in hyde park over the last month or so, you should improve the process. It will also allow the city to avoid future litigation. In short, there will be less work for you in the future if you guys can get this right this time around. [One moment, please, for change in captioners] have city staff work with petitioners to craft final design standards before signatures in support are collected. Or you need to be willing to

mchone suggested and seek property owner approval after the final revision of the design standards is created. And in the current process what we had were property owners signing a petition supporting the local historic district based on a set of design standards that are fundamentally different from those before the council today. I would add that this process put the petitioner, widelick, in an impossible situation for pleasing everybody. I would say for the current process I would like to suggest that you would generate an enormous amount of goodwill and faith in this process if you directed city staff to mail a copy of the current draft of the design standards to all property owners. This is the same thing that happens whenever there's a proposal before the nccd, sadowsky sends a letter to everybody nearby who is going to be affected. And they sign off. They have the opportunity to say, I disagree or I like this. You can also potentially follow houston's example and ask property owners whether they still do in fact support the local historic district. And here's the key point. This is my belief, but I honestly believe this. I believe that you are likely to get more buy-in on this process once more of the property owners know how much these design standards have been improved. And that I think is a key factor in making sure everybody feels that the process has been fair. Number 3, the city should inform property owners within a proposed local historic district that their structure is either contributing or non-contributing. I agree with mr. nilz. I've spoken to many of any neighbors and many had not a clue whether they were in a contributing structure or not. And as part of this process you need to give property owners a transparent means of appealing either cat goreization. There may be people who feel they have been designated as living in a contributing structure correctly and there may have been others who feel like they've been left off the list incorrectly and they want to be put on it. Number four is the necessity of recognizing that not all contributing structures are created equally. And I believe that you should mandate different levels of protection for structures based on their actual historical significance. And the example I can think of from the current process is that the current proposal treats 1950's ranch houses with nothing particularly interesting to recommend them architecturally in the same category as victorian mansions covered with beautiful stick work. This to me really defies common sense. Number 5, I believe that you should treat all property owners who inform you sadowsky or rusthoven in writing that they are not opposed to the lhd, the same significance that you attach to signatories after petition of non-support. These are actually separate categories. I actually have no idea how many people returned the original forms at the very stage -- [buzzer sounds] is that my six? You guys have the rest. Thank you very much for all of your time and thought on this issue.

>> Mayor Leffingwell: Thank you. Next speaker is eric begene. And kenneth deion, emma deion. So eric, you have up to nine minutes.

>> I have a preparation. Can I wait for my minutes to start?

>> Good afternoon, council. I should start with why should the council not pass the lhd tonight. I speak it in the neutral position. There is no reason that requires passage tonight, so let's get it right before we pass it. There's the obvious issue of section 25-11-211. I'll cover that. kirk said, adequate notification of property owner stakeholders. And finally, what would we do during the delay of time? We would get a couple other details right so this would stand and be a better document. So there is essentially -- there would be no support for this lhd if property owners were aware of the restrictions in 25-11-211. It designates the same requirements for historic landmark structures and to contributing structures. Demolition by neglect. What are the requirements? The property owners shall preserve contributing structures against decay and deterioration and shall keep it free from any of the following defects, broking, rot ised roofing materials, windows, any condition that render tz not properly water tight. And you shall keep your property clear of all weeds. Penalty, class c criminal misdemeanor, 2,000-dollar fine. Fine of a thousand dollars a day. There would be no support for an lhd with those restrictions in place. There is support for it, but not with 25 in place. What happened last time the city did not give adequate notification to the neighborhood? Over 200 property owners signed a petition against in just three weeks. That's why you have a certified petition before you tonight. Conflict and hard feelings arose in the neighborhood. martinez gave us 28 days or so. What happened? Compromise has been reached, critical issues identified. Neither constituent nor the petitioner was even aware of ordinance 25. The plan was approved and we had neighborhood relations. There has not been adequate notification. People at the meeting. Rushing the plan through is wrong for hyde park. What would we do during this

time? Staff -- we'll go through these issues and I'm going quickly. Staffing response time. Currently the hpo appears to be understaffed. If this is passed their work load will increase. City council may want to fund additional staffing for hpo and set forth expectations for turn around times for home maintenance and emergency type requests. End result would be hyde park residents who would be able to make repairs in a reasonable time frame. This is my home and it has a large pecan tree over it. A large branch has fallen and punched a hole in my roof. I have cracked windows. I put in the application to the hpo november 17th. Three follow-up calls, two messages left. No response. If you pass this tonight, i will have three criminal misdemeanors for broken windows, a building that has a hole in it that's not water tight and I have weeds in my yard. Independence. The consultant that was paid to make the current property determinations is a current member of the landmark commission. City council should make it explicit that they should rereview them before any hearings about the lhd. Cleanup the bookkeeping. 51% Of support is required to initiate an lhd. The lhd was initiated odd july 26th at the meeting. The city cannot verify 51% support until november eighth. Three percent support is OBTAINED NOVEMBER 1st, 2010. Therefore the certified level of support on october 31st was 48.01%. Now, the petitioner says they have 51%. I have no reason not to believe them. But the city needs to go back and certify the support level on july 25th. Otherwise this is a legally challengeable ordinance.

>>> Next, audit review and approval. Property owners may wish to dispute their properties. In some cases of contributing properties appear inconsistent. Recommendations, the city council may want to have an independent review classification and establish a straightforward appeal process for property owners. The result, independent and transparent property classification process and due process of property owners. Let's look at these four properties. Let's play a game. Which one of these properties is the contributing property? Next slide. The answer is these three are contributing while the one built in 1930 is not contributing. The one built in 1960 is questionable if it's even 50 years old. Let's go to the next slide. This is right off the survey. Why is the one on the right contributing? It has moderate alterations, doesn't detract from historical character. I'm not quite sure what sort of historical character there is there. I'm not an expert, though. What is the one on left? Built in 1930, severe alterations or incompatible additions. Next slide. This is from the survey. On the survey the property on the left is identified as non-contributing. The items you see on the right is what's in the lhd submission package which identifies this property as contributing. Next slide. We've talked about the two door issue and we've heard why two doors is great for a personal office. The example actually at the meeting was somebody who wanted to live in a two-one bungalow and wanted to have the front bedroom for a child and was concerned that somebody might walk in off the street off the second front door and straight into her child's bedroom. I would encourage the city council to put personal safety above historic preservation in marginally contributing structures. It might be something that the city council would want to direct its commissioners when considering requests that they would put personal safety ahead of historic preservation. Next, boundaries. Let's look to the east to houston. What's going on there. The second look at historic districts. Eight of 16 petitioned the city for a new vote on issue. Officials have said districts could redraw to encompass only the blocks where a majority of owners support new protects. Not everybody in hyde park wants an historic district. Not everybody is opposed to it. Some people just like to be left alone and not be included. There are large parts of hyde park on the edge of the proposed lhd where there is no support and potentially strong opposition. City council may want to reconsider the boundaries for the proposed lhd. This issue was never up for debate or was shut down immediately. When neighbors want the protection of lhd and all the benefits the petitioner has put forth, they can have it. Where property owners want to be left alone you wouldn't enforce this unhgly on property owners. Let's look at the current example. This is a combination of two historic districts. Let's talk about this little corner of hyde park. Let's identify everyone who is in support of the lhd. We'll identify them with the green. Next slide. That's zero. Let's go to everybody who does not support the lhd. Next slide. That's 35. Let's go to everyone who actually is opposed and would like to be excluded. Next slide. Next slide. Redraw the boundaries, exclude people where there's not support. And finally, unfortunately we had an issue with we talked about retribution in the past in hurricane ike in fear of people coming forward. I had a simple question for city council. The happen on the left I got from a public information record request from the city. There are only two homes in this map that are identified with initials. One is mine and one is another person who spoke against this, ken deion. I would like to ask the council why are our homes identified with initials on this map? Does the city have an answer? I got this from the city.

The only homes identified with initials.

>> Mayor Leffingwell: We'll leave that as outstanding question to be asked. You have about 30 seconds left.

>> So council for the reasons I talked about, I'm not against an lhd. I think we should allow people who want an lhd to have it. We should not force it unwillingly on people who do not want to have it. By delaying tonight you can fix these issues. We've talked about you pass an ordinance while there's another ordinance sitting on the books that can -- that can be enforced. Taking the time to get it right would be in the best interest of the neighborhood, but the petitioner opposition, those are neutral. You will have better goodwill and happier constituents. Thank you very much for your time.

>> Mayor Leffingwell: Thank you. So we have lisa harris, sharon brown, cynthia leon signed up for, not wishing to speak. Those are all the speakers that we have signed up. Were you signed up and i didn't call your name?

>> [Inaudible - no mic].

>> Mayor Leffingwell: Wcbadell signed up neutral. You must have signed up and just -- you can go ahead and speak. Three minutes.

>> Good to see you all again. I'm joe badell. I had hoped to have more time, but you will get the short version today. I'm waiting for the file to come up.

>> Mayor Leffingwell: Do you want to pause his time until we get the --

>> do we have a clicker?

>> Mayor Leffingwell: There we go.

>> There are really two questions that we need to be looking at. One is the immediate issue, that is the question of the matter before you today. It's on the surface. And part of the question when we look at hyde park is how do we restore trust in the neighborhood association, but looking forward we should be looking at other historic districts in austin and how the way this is handled today is going to impact the process with the many other district in austin that have a potential for being an lhd. I'm going to start with what I had hoped to end with, which are some fiscal ramifications. In a recent letter to aisd employees, superintendent maria carstarphen stated that the city of austin faces a significant budget deficit going into the next school year. We must face these challenges in the 2011-'12 budget. Aisd has been in awss stairty planning for the past two given our current fiscal reality, it will not be possible to avoid reductions at the campus level for 2007 and 12. What that means is teachers, therapists, speech pathologists and other surface providers at the schools are going to have to be cut. What would this new lhd mean for the work load at the preservation office. Their resources are already stretched thin. I gather that there's a new hire anticipated, but what kind of a work load would this new lhd impose? And we're looking at just this one district. At the moment there are 28 historic landmarks in hyde park for which the preservation office has responsibility. If adopted, the local district would include 487 structures. That means that in this one district there will now be more than 16 times as many structures for which the preservation office will have to allocate resources. Mandatory standards will require more intensive city review and inspection before proposed construction can be approved. This is just a couple of examples taken out of chapter 25-11. And it points up in red the items that a preservation officer will have to pay attention to. If the preservation officer determines and so on. Every application for a building permit must be routed through the preservation office. Requirement of the certificate of appropriateness, the preservation office will review applications for projects that involve replacement of doors, windows and roofing materials to determine if a certificate of appropriateness is required. The historic preservation office has the authority to approve minor projects. All of this is work load. There must be an error in the fiscal impact calculation appearing in the council backup today. [Buzzer sounds] more

intensive city review and inspection will cost the proposed ordinance will have a negative impact on the city budget at a time when balancing the budget is already a challenge.

>> Mayor Leffingwell: Thank you. Those are all the speakers that we have. So discussion? And we are ready for second and third -- passage on second and third readings, and we are discussing a motion that would contain design standards that were proposed on december 7th through 9th, is that correct?

>> They are dated december 9th in your backup.

>> Mayor Leffingwell: Councilmember shade.

>> Shade: Can you address the issues raised about 25-11?

>> Sure. Several years ago several of y'all may remember, we had a house on enfield road where the property owner had removed the doors, removed the windows, the house had deteriorated, it had mold, asbestos, etcetera. The demolition permit then came in for that house and the council had a tough decision to make on whether to approve that demolition permit or not. As a result of that house the council later passed a demolition by neglect ordinance and that is the ordinance being cited by the individuals here tonight. That ordinance addresses landmarks as well as contributing structures because one thing that we did not want to see was where you have a contributing structure that's identified either in a national historic district, the owner allows the property through neglect to become deteriorated and then therefore argues that it is not appropriate for dezavala I guess designation in the future because of their own neglect on the property. The items that they spoke of are directly out of the demolition by neglect ordinance. There was some confusion and I'll admit -- on the staff's part as well at the last meeting that we had on december 7th when they were reading those sections to us, they were telling us that we were trying to hold contributing structures to the same status as the -- the same standards as landmark. With regard to demolition by neglect, that is true. However, I would point out that in order to get to the point where you are charged with demolition by neglect and thus far nobody has in the city since we passed that ordinance, a lot of times you reach point where you're already talking about fire and safety issues as well becoming involved. So in other words, the typical building standards commission process would be involved as well. The city is not going to go out in hyde park and look for, you know, a cracked window on a contributing structure. We don't have the manpower or the desire to do that. But if somebody were to do what happened on olden field road, take a contributing structure and open it up to the elements, then yes, we would use that ordinance.

>> Shade: Just as a follow-up, can you also explain who decides what a contributing structure is and how that process works?

>> Sure. As part of the nominating package, the -- in this case and in other cases we've had the nominating team has hired a professional architectural historian, in this case it was preservation central, to go out and when they submit the application they make a proposal of the list of contributing structures and we review that list along with the review of the design standards. Shays shays can you address the point that was raised about how that was -- [inaudible].

>> Steve sadowsky with address?

>> Would you repeat the question?

>> Shade: I was trying to see how it works in what was a contributing structure? I'm sorry, I can't speak. And you know, sort of how that process works and who is informed? The point he raised is people don't know they're in a contributing structure. Can you just kind of shed some light on that. Who does it, exactly dishow it work? Does somebody come knock on your door?

>> Nobody comes knocking on your door. What happens is the first thing do you in any sort of historic district study is to survey and inventory. So you look at every single building within the potential district

and because have you to have 51% of those buildings contribute to the historic character of the district, that's how you figure out what the boundaries of the district should be. Contributing is a professional decision and in our code we have specified that while almost everything else in a local historic district nomination can be done by the folks in the neighborhood, the determination of what is contributing, what is not contributing must be done by a professional who meets the secretary of interior's professional standards. So this is a decision that is made generally by looking at how old the house is, whether it maintains its historic appearance, historic materials. It has very little to do with whether that property owner has nothing to do actually -- it has nothing to do with whether that property owner wants their house to be contributing or not. It's a very objective decision based on criteria. And in our nomination packet forms, we have space for if a house is deemed non-contributing, the justification for that. So those are changes to the house or it's not 50 years old are specified on each form in the survey.

>> Shade: Going back to jerry's point and the issue raised about the cracked window, for instance, and you're not out there -- you're not going out and looking at contributing structures and whether they have a cracked window, but can somebody turn someone in ? How does that work? Is somebody calling code compliance? How does that process work?

>> Sure. We work very closely with the folks in code compliance. And if they have complaints that they don't -- that they're not getting a satisfactory result through their own efforts, then we can be brought in. The thing to remember about all of this is that the things that are listed in the demolition by neglect section of the code are all things that are going to bring you before building and standards commission anyway. These are not anything additional like sagging roofs, broken down chimneys, all of that is complaint driven. So we are not going around neighborhoods going, broken window on that house, let's get 'em. That's --

>> it is complaint driven in that a neighbor can turn in a fellow neighbor on something as minor as a cracked window or as major as opening the home that jerry explained on enfield? It's that broad? It literally could be a neighbor turning in a neighbor for the cracked window or it could be a neighbor turning in a home that is left open to the elements as jerry described? It could be anything in between?

>> That's correct. It's not limited to historic districts. Any person in the city can turn in.

>> Shade: For code complains issues, but cracked windows are not necessarily a problem in any district or in any neighborhood. I'm just trying to get the difference.

>> It implies a willful action on the property owner to let the property contribute to the point where it has to be taken down. An accidentally broken window or -- there's economic hardship arguments in that too. And demolition by neglect is a long process where we're never going to get to the end of it without going through a lot of negotiations and working with that property owner and trying to get voluntary compliance with the things that are code violations. So these criminal penalties are not really a last resort.

>> If I could address that. The demolition by neglect is intended by constituent to stop that from happening. It is not as simple as a neighbor calling up and telling us there's a cracked window. We go out there, oops, there is a cracked window, you owe us a thousand dollar fine. We would have to take the case to the landmark commission and get the landmark commission to initiate a demolition by neglect case that this landowner is doing demolition by neglect and simple things as weeds or a cracked window doesn't rise to that window. There are lots of examples given as to what leads to demolition by neglect, but one individual one doesn't necessarily make a demolition by neglect case.

>> Shade: But the burden is still on the neighbor to say this doesn't rise to that level. I just want to clarify that.

>> But the city would be going to the landmark commission and saying we don't think this rises to the level of initiating a demolition by neglect case and therefore nothing would happen.

>> Mayor Leffingwell: I want to emphasize two points. I think they were made. I'm probably the culprit in this. I was the sponsor of the original demolition by neglect ordinance. It took several years to formulate that ordinance and get it passed, but its purpose -- it applies anywhere in the city. This has nothing to do with the historic district. And it does require sort of blatant purposeful intent to open up the house and let the elements or critters or whatever else it is self-destruct. There is no question in any mind that a cracked window would not rise to that level. Certainly. Councilmember Riley and then councilmember Cole, did you have something else? Well, councilmember Riley has it now. It puts you in the queue?

>> Just a couple of questions about the procedures that would apply with the historic district in place. If I have a home in the historic district and there's a big storm and a great big limb falls on the house and it puts a hole in the roof and breaks a window, what kind of procedure would I have to go through in order to just make repairs based on what happened in the storm?

>> Councilmember, if it's ordinary repair and maintenance, there's no delays involved. A limb falls on the house, you're rebuilding the roof using the same materials, we'll just go ahead and approve that administratively. It's when you make changes to the house that the process involving review by my office and possible review by the landmark commission comes into play.

>> Riley: Is there a time lagging for those simple repairs? I approach your office and advise you as to what I'm contemplating. Like how much -- how long would I have to wait in order to get any kind of clearance to go forward with that?

>> We'll take care of it as soon as humanly possible. We've done this on several houses that are landmarks. I don't know if you remember a couple of years ago a house at the corner of Ninth and Rio Grande, a landmark house. Big tree came down in a windstorm, basically demolished their south end. And we approved the repairs that same day so they could get started with it.

>> Riley: Okay. And if a property owner is unhappy with a decision on the -- on any proposed repair or improvement of a contributing structure in an historic district, what remedy is in place? What would they do?

>> They can appeal through denial of the certificate of appropriateness to the planning commission. They can then appeal that decision to the council. But between the landmark commission and the council, the planning commission has a say.

>> Riley: Okay. And then suppose that as time goes by some issue comes up that proves to be problematic, something that wasn't anticipated at the time that the rules were crafted, a rule that's not working very well, a rule that just proves to be overly burdensome or is applied in a way that just seems unreasonable. Is there any procedure in place for tweaking the rules in the future? How would we go about doing that? Adjusting the rules once they're in place.

>> What we would do is go to the planning commission staff, we would go to the planning commission and ask for initiation of a code amendment to either change the rules for local historic districts in general or if there were a specific rule and a specific district, we would have to initiate a zoning case to amend the existing district and then bring that to the landmark commission and eventually back to the council.

>> Riley: I just want to be clear about that. If we're talking about the standards that apply under this particular historic district, something in the standards that proves to be problematic, then to change those standards would require going to the -- would have to go to the historic landmark commission or at all?

>> The staff would ask the planning commission to initiate a zoning case. We would take that zoning case to the landmark commission, back to the planning commission and then to the city council.

>> Riley: Okay. So start at the planning commission and go to the historic landmark commission and

back to the planning commission and then council.

>> Or alternatively the city council could do the same thing, initiate the case and we could go through the same process.

>> Riley: Okay. Thanks.

>> Mayor Leffingwell: Councilmember cole.

>> Cole: Thank you, mayor. I just wanted to say that i know this has been a long process for the neighborhood. And that of course we have to make a decision today, but I'm hopeful that as we make that decision that the neighborhood will begin to repair and come together on the items that they can agree on. I also recognize that part this includes the elizabeth ney museum in hyde park and that's unique circumstances to bring us to the level of allowing a local historic district. But that being said in listening to the comments and responses of staff, mayor, I will move approval to -- move approval of the item and to close the public hearing. On all three readings.

>> Mayor Leffingwell: Councilmember cole moves to close the public hearing and approve on second and third readings the historic district application as laid out in the design standards approved on december ninth. Is there a second? Seconded by councilmember morrison. Further discussion? Councilmember shade.

>> Shade: One of the questions that was brought up that I was curious about, and it may be that neighbors would answer the question or staff, but why wouldn't you change the boundary to -- as was suggested? I'm just curious.

>> The northeast -- the northwest corner?

>> Shade: Yeah. When you saw the picture, you could put the slide back up, I guess, but I'm just curious so those who didn't want to be in it wouldn't be. It looks like that could be done. I'm curious why wouldn't do you that?

>> Well, when you start on a local historic district you're looking at the original plat because you're taking into consideration the context of owe of every building within the proposed so this area that was highlighted earlier was part of the original plat of hyde park, the houses are contributing to the historic district as far as their age and design. It's just more the integrity and the honesty of the district representing what was originally set out and planned.

>> Shade: And who does that? Because I mean, I know in my neighborhood we had to make some adjustments to be able to -- you could have drawn a district in a couple of different ways in my part of town. I'm just curious, I wanted to know how does that work.

>> The nominating team proposes the boundaries of the district and staff looks at those as part of the review. If you remember on the castle hill local historic district, we did agree to an adjustment of the boundaries after the application was submitted because we felt due to geographic reasons with the houses being down the bottom of the hill, faces lamar as opposed to being inward facing towards the district, the nominating team agreed to have those taken out and the staff agreed with that recommendation because of that certain geographic situation.

>> Shade: I'm going to be voting for this district, but I do -- I do want to recognize the work that's been done, especially in the last couple of weeks. I was really troubled a month ago when we had the meeting. I talked to several of the neighbors afterwards on all sides on this issue. Mostly because this wasn't an issue of development versus a neighborhood. This was neighbor against neighbor. And I think that obviously lori, you've been recognized for doing a lot over the last couple of weeks and i appreciate the comments that were made. This is clearly -- that's great because I think at the last meeting we were

trying to rush it -- there was a hope to rush it through and animosity between both sides. I think that a lot of work has been done. I still think that the issues that were raised -- i know several of my colleagues would agree with me -- that the process is far from perfect and definitely needs to be improved. And I really appreciate the suggestions here and I have some others as well. But you know, it's really hard when you see neighbor against neighbor and when you see opportunities for people to turn each other in. These kinds of concerns, creating new agriavation for neighbors. And we don't just see it in local historic district discussion, we see it in all kinds of neighborhood issues. When we have a case over here, it creates new compliance concerns raised on a different side. So these are -- I think we have some work to do, but again, we are one community. I definitely think that hyde park rises to the level of being a very significant neighborhood with its own distinct culture and character and that should be protected. I pledge to work with the neighbors who aren't happy with this decision as well as the neighbors who worked hard to make this happen. I want to especially appreciate your comments and some conversations I had offline with steven bednar. And again, I plan to be voting for it and recognize that we still have some work to do.

>> Mayor Leffingwell: Well, likewise I'm going to support the motion. At the same time valid concerns have been raised and I think this process of developing historic districts, although it's something I have long supported and still do, we're kind of new at it here this is only the third district that we've dealt with and this is by far the largest. The first two were actually very small historic districts. I do think we have a few things to learn. A few things to tweak as we go forward because we're going to be dealing with more of these historic districts throughout the city. And I think we should be doing that. So again, I will support the motion. Councilmember morrison.

>> Morrison: I guess it's no surprise since I seconded the motion that I will be supporting motion too. I want to especially thank staff because I think everybody recognizes that we're on a learning curve here and this particular district application has been in the queue for a long time. So we had some issues that you all worked with and we learned from in the previous district application, and this one was almost submitted at the same time if I remember correctly. So I think that both of those will give us a good opportunity to sort of sit back and figure out how to do it better. I know you all know that and we have other challenges in terms of the historic preservation office being able to fill all of the positions and all of that. I know that we've got -- i think we have a really bright future in front of us with this very important element of our community. Thanks.

>> Mayor Leffingwell: Motion on the table with a valid petition. All in favor say aye. Opposed say no. It passes on a vote of six to zero with councilmember spelman off the dais. And recused.

>> Mayor, that concludes your zoning tonight.

>> Mayor Leffingwell: Thank you. Without objection, council, we're in recess until 4:00.

>> Mayor Leffingwell: We are out of recess. 00 public hearings with possible actions. First item is item number 94 and I understand we have a request for a postponement on that item?

>> Yes. Mayor and council, my name is greg guernsey with the planning, development and review department. Item number snore is to conduct a public hearing and consider an appeal by albert stowell regarding a decision to renew an outdoor music permit for the allan house, which is located at 1104 san antonio street. The dan ross a representative of allan has requested a postponement of this item. I didn't get a specific date, but I think that dowel gallon let is here and can i think speak to that postponement request. It is technically their first request, but there has been two prior postponement, one requested by staff in august and that was granted by council. And staff asked for that postponement request because we were seeking to ask the planning commission to amend the ordinance to deal with entertainment venues that take place outdoors. Right now that category pertains the same to an outdoor wedding as it would to a nascar race track. We're trying to narrow that so that it wouldn't be such a wide scale variation. But both the appellant and the owner of the property both agree to that postpionement. Then in october there was a request by al stowell, the appellant, to grant more time to allan house to try

to work out a mitigation plan. All the parties were working through a proposal that was on the table in october. And all parties agreed that additional time was probably worthwhile because negotiations were going well. And then today we have a postponement request by allan house. Albert stowell has sent staff an e-mail earlier today that they could not agree to -- that he could not agree to an additional postponement. That this is the third postponement request and that he had agreed to the prior two extensions. And that since the august hearing was proposed and then to october and the october hearing was postponed to today, that he and the neighborhood association were on record always opposing the renew of the outdoor music venue permit and that since they've filed their appeal that at this time there hasn't been -- there have been no really new issues that needed to be addressed. And so therefore he's asked you to go forward with the scheduled hearing today. They mentioned -- as i mentioned before, al stowell is here and can speak to his request to deny the extension. Dowel gallon let is here to request the extension. And staff would not object to your action today whether you go forward today or to postpone, but if you do postpone I wanted to let you know your january 13th agenda is plenty packed. You have two outdoor music venue appeals that you will consider on that evening for luster pearl and the rainy street area, which is a two side appeal by the applicant and the neighborhood. In essence you have three appeals already scheduled on your 13th. If you choose to decide to postpone this, this will make four in one night. So I want --

>> Mayor Leffingwell: I think we get the message, mr. gurn any. [Laughter]

>> thank you.

>> Mayor Leffingwell: Let me ask you a question. There have been two prior postponements, one by the applicant -- the permit owner.

>> No, the appellant of the permit. The person who has filed the appeal, they have asked for one postponement.

>> Mayor Leffingwell: Okay. So the person who is filing the appeal. And who was the other?

>> Staff.

>> Mayor Leffingwell: Staff requested. So the owner of the property has not yet requested or received a postponement.

>> That is correct, but all parties were working together to try to get this to a point --

>> Mayor Leffingwell: So it's not a clear-cut case at all. So we're not -- before we take up the appeal, we have a very strict process that we follow on that, but we're not going to do that until we deal with the postponement issue. So we'll hear three minutes regarding the postponement only from each side.

>> Okay. do you gillett is here.

>> Good afternoon, mayor and council, dow gillett on behalf of allan house. I apologize for my voice. At least I'm not touching you today. I represent allan house. And this is our first request for postponement. There are two previous ones. One at the request of staff to work through some use issues. And the other on behalf of -- the appellant in this matter. I'm not sure -- I can't recall exactly why they were seeking a postponement. Regardless of that, since the date of the last hearing, my clients have worked diligently with staff, your music staff, looking at sound mitigation measures. And they recently at the request of staff have installed 120 linear feet of acoustical fencing at the site. Staff had recommended 60 feet of acoustical fencing. We said we'll double that and --

>> Mayor Leffingwell: gillett, we're discussing the postponement only.

>> I'm getting there, your honor.

>> Mayor Leffingwell: I'll see where it goes then. For a little bit.

>> We haven't had an opportunity -- meaning us and city staff to fully gauge the effectiveness of that fencing. So we believe in the interest of justice that time be given and we're agreeable to whatever council wants to do as far as postponing this to allow to conduct tests. I understand that they would like to do testing on the effectiveness of this mitigation. We would love to have the opportunity for -- during that testing and the results of that testing to have you, council, come physically or your aides physically be there to witness it. So that's the reason for postponement. As you all know, outdoor music permit is good for a year. This permit is about to expire regardless. And you will have to have a new application for a new permit and I'm sure that the new mitigation terms will be in there. So the bottom line is that's the reason we're seeking the postponement, your honor. Happy to answer any questions.

>> Mayor Leffingwell: Thank you. Mr. stowell?

>> Thank you, mr. mayor. I'm albert stowell. I'm the appellant. I'm definitely opposed to another postponement. This is a multi-year appeal process that we've gone through. When staff asked for the postponement, I was reluctant, I didn't want to do it. Reluctantly I did. And it was to address the underlying issue that they do not have the legal right to have this outdoor entertainment in that area. So after going through the planning commission twice in september, in august torks try to find some way to create a code that would allow them to be legal, and in an effort to try to work with them, the allan house called me again in october and said can we postpone it, can we work together? We want to work together? We want to do something. So I agreed on their behalf. And then as I walked in here I found out that there's another twist in the multi-year process we're going through that they haven't technically asked for a postponement. When the one in august was at their behalf because staff had through process tried to find a cohesive way for them to operate, I in october graciously and reluctantly agreed to another postponement at their request, although it was put on my e-mail letterhead, it was their -- their request. And I would like to hear -- I would like to have you hear our appeal tonight and take an action on it because it's not only a nightmare for my wife and i, but it's a nightmare for the entire community. stowell, are you saying you have not -- you did not really ask for that postponement?

>> I -- working with staff and working with dan ross, there was no way that they could come into compliance, and since the permit was issued in error to begin with a couple of years ago and has been renewed even with formal protests on the table without any hearings, I agreed to try to find some other way to do that. And I was asked if I would agree to a postponement and technically I had written the e-mail saying can we postpone it another month. And since I could not be here, it was postponed for two months so we're here in december on an appeal i filed in march over an appeal we filed over a year and a half ago and it's continually pleaded with staff not to renew it. We've pleaded with staff to have our hearing, and here we are in december nine months later asking for another postponement, which would have to be february because I am a musician and I have several gigs in january that will prevent me from being here at council.

>> Mayor Leffingwell: Thank you. Council? Council, comments? Councilmember morrison.

>> Morrison: I have a question for staff actually. On when the permit actually expires?

>> This coming march.

>> Mayor Leffingwell: So the situation we're looking at right now, council, is there has to be a motion to postpone. If there is not a motion to postpone, there will not be a postponement and we'll hear the case. The floor is open. Is there a motion to postpone? Hearing none, we'll hear the case. So before we begin discussion, are there any requests for -- there have been requests for postponement? Are there any issues of standing? Hearing none --

>> mayor.

>> You have an issue of standing, mr. gillett?

>> Standing is real clear, your honor. The basis -- I need to take a look at the appellant letter. It is very clear in the appellant letter that their only basis is the use. And that is a moot issue. guernsey address the issue that we had a valid temporary use permit. That's the basis for which they are seeking the denial of on or the over throwing of this existing permit.

>> Mayor Leffingwell: I'll have to ask the city attorney. Is this a question of standing? Mr. lloyd?

>> Brett Lloyd, city attorney's office. I think standing as we've interpreted the code goes to more to the issue of whether there's an appeal properly before you, and i believe there is.

>> Mayor Leffingwell: Thank you. Thank you, mr. lloyd. So we will now hear a report from city staff.

>> Thank you, mayor and council. The appeal that's before you is the appeal of an outdoor music venue permit. As I said before, this is for a venue at the property own as the allan house at 1104 san antonio street. March 15th of 2010 my department issued the approval on outdoor music venue permit for this facility. albert stowell who is a property owner within 600 feet living in a single-family residence filed an appeal which is in your backup to this venue. And the appeal it in your backup on the last page of the backup material. The venue itself was granted a permit with some limitations that the decibel limit be limited to 70-decibels. This would actually be the same limitation that we would apply to a general restaurant. The property is zoned cs, so that would allow a general restaurant use. That the project does have a limitation of the speakers that are used on the property would face east away from the appellant's house towards some existing commercial buildings. And also we found that it did comply with 9-it of the code. The hours of the operation were pretty much limited from on sunday, monday, tuesday and wednesday. On thursdays from 10 to to 11:00 p.m. On thursdays and from to midnight on friday and saturdays. The property owner has worked with our music liaison's office and the owner has agreed to install sound curtains along -- curtains along 60 linear feet, which you've now been told is 120 linear feet. The orientation of the stage and I think the sound equipment had been worked out over the past couple of months. dave murray here if you would like more information on that. To mitigate the effects of the sound that would leave this property and might be heard elsewhere in the neighborhood.

>> The adjacent properties that surround this to the north and h, historic zoning and there's office and retail to the south. You have the court complex, basically the county jail facility, to the east are parking lots and to the west is office and parking lots. The appellant's house is only about a block and a half away from this venue. And the general topography in this area places allan house at a higher elevation than the appellant's property just a block and a half away. There have been noise complaints that have been issued that are in your backup material that took place in march and may and june of this year. I believe there were some additional complaints that were filed later in the year. did go out more recently, it was found that they were not actually playing at a time when the officer had arrived or that the decibel level was not determined to exceed, but i think the -- office of the facts that you might here on this property are exaggerated without any kind of mitigation being in place because of the elevation and a lot of the area in this neighborhood of the allan house is either concrete or structures that might bounce sound around. But the permit was issued in accordance with the ordinance. The ordinance as approved sets up a process where an appeal can only be filed by an interested party after the permit is actually issued. So with that I'll pause if you have any questions. The appellant is here. I think there's a neighborhood representative here that can also speak to some of the issues and certainly the property owner is here as well.

>> Mayor Leffingwell: So we will hear from the appellant first. stowell, you will have up to 10 minutes with no donation of time.

>> I will be much briefer than that, I hope. Thank you, council and thank you, mr. mayor. My name is albert stowell and I live on the corner of rio grande and west 11th street, a block over from the at lan

house. -- The allan house. First of all I want to put you at ease that this is not an issue about live entertainment or music. This is an issue of failed process. I'm a musician. I've been a musician for 45 years. Most of my time everyday in my career is either producing music or performing music. So I'm not anti-music. But what I am concerned about is a nuisance and a process that created what i would consider an almost industrial use in a residential historic area. My house was built in 1888 that we lovingly restored. And for that 120 years that house enjoyed the downtown serenity of the historic character of a community without the hustle and bustle of the graiment and industrial area of sixth and fifth street. There's correct places and there's incorrect places for entertainment. The adaptive use of a law office in that historic home that don ross uses at allan house is appropriate and is good. It was adapted good use that protected the character of our community. And even the wedding venue that now has become the primary source at that property is a proper use, and the community welcomes that. And after 30 years of marriage I'm certainly not anti-wedding. But what I am is very concerned about the continued nuisance of the misuse of the outdoor entertainment. The neighborhood and i myself, we've met with ross on several occasions and tried to encourage him that the volume has to be addressed. It would be certainly appropriate to have outside acoustic music for the wedding venues because that's where the wedding takes place. He has approximately the same square footage inside the house. He has proper zoning for indoor entertainment. The band can be set up just like a vintage villa or at green pastures when they have the bands inside the building. There are a lot of venues that are in neighborhoods, residential neighborhoods. There's over 400 units of either apartments or single-family houses within two and a half blocks of mr. ross' property. So because of the process even though we have tried to appeal and even though I had tried to appeal and we've ross since 2008 when he started this, it's just been a nightmare for us. October 29th one of the , my wife and I tried to watch the game in our house. The music that was in compliance at 70-decibels was so loud coming from the allan house that we could not even hear our own tv. And if you could hear it upstairs in our bedroom -- last year we spent almost \$30,000 replacing our windows with soundproof windows to try to mitigate the problem created by the allan house. And unfortunately that did not work. My wife left that night in tears because we couldn't find a hotel because the game was in town. And it's not an isolated incident. It happens over and over and over again. And there is no relief. And that's why I'm pleading with you now to give us some relief. It would not impinge on his business plan at all to have acoustic music outside for the weddings and crank it up as loud as he wants to inside the house. That's my appeal to the council. So I would ask that you support my appeal and revoke his permit.

>> Mayor Leffingwell: Thank you. Next speaker is blake tillette.

>> Even, blake tillette here as secretary of original austin neighborhood association. In the packet is the letter from clark thomas and winters representing mr. ross. It says, -- I would like to read a little bit of it. It says during an event at the allan house, the principal use is an indoor venue. The allan house rents out the house for a events and guests occasionally conduct a portion of the events outdoors on the improved grounds and porches. Guest wills customarily congregate to the outside porches and grounds of the venue weather permitting. The outdoor use is merely an accessory to the indoor use as the outdoor use is incidental and customarily associated with an indoor event. What the neighborhood association has said is what stowell said, if they want to have amplified music, whether it's mechanical or live, whether it's voice or instrumental, that can all be done inside. They can make a profit. We're not trying to take the money out of these people's mouths. We're trying to give a little peace to the neighbors. There are residential people in that area. They're in the 500 block of west 12th, of hundred block of west 12th. 600. This is going to set a real precedent in this area. This is an out rider. It is surrounded by commercial, residential uses. I was down at the america hi hall about two months ago at a wedding. It was beautiful, outdoors. They had string instruments outdoors, but when that was done they went indoors for the band. That's what we're asking here. We don't see -- it's not necessary -- if they can do acoustic outdoors they don't need an outdoor music venue permit. That's why we're asking for it to be revoked. [One moment, please, for change in captioners]

>> it's not necessary, they don't have an outdoor use permit. It's conditional use under cs. They don't have that. They'll baseball applying for it for almost the last two years. That's why they've been working on their temporary use permits, planning commission subcommittee, they were looking for a limited

permit for outdoor use. Planning commission subcommittee rejected that. They said that that's not appropriate in this case. So anyway, we asked the neighborhood association onas that you pull their permit. Thank you very much. thank you. Next speaker for the appeal is john horton.

>> Thank you, mayor and council members. My name is john horton. I'm ask here to ask that you revoke the outdoor music permit for allan house. My family has owned property in this neighborhood for four generations and I grew up in the house at # 07 san antonio street. I own -- I have my office at 903 nueces and my children live in houses at 901 and 905 nueces street. These houses were approximately two houses from allan house to the south. Although we certainly hear the music coming from the parties held at allan house, the presence of travis county criminal justice center helps block much of the noise to our property. I've been at the stowells' house when -- excuse me, but I know that there's a substantial noise problem for my neighbors. I've been at the stowells' house when the muse was playing from the backyard of the allan house and it's very disruptive. I cannot imagine trying to read, sleep or watch tv while this music is being played. We have a mix of office, retail and residential, and this diversity is appealing as long as we respect each others' rights and issues. I don't think the owners of amy house respect the rights of the residential neighbors by allowing amplified music to be projected from their property. It is my understanding that the use of allan house as an entertainment venue is only a secondary use, and the primary use is that of an office at least five days a week. I think it's fine that they can also use the property for entertainment purposes, but the amplified sound should be kept inside the house and the outdoor area should be used for acoustical music or other pur that would not disturb the neighborhood. Thank you for your time and I ask you please revoke the outdoor music venue. thank you. Those are all the speakers that I have signed up who are for the appeal, so we'll go to those -- to those who are opposed, beginning with the respondent, mr. gillett. You represent the respondent, so you will have ten minutes.

>> Mayor, again, al gillett on behalf of the allan house. There were a number of people that have signed up wishing to donate time and there are a number of people that wish to speak, so i don't know what order you have of up there, but I'll start -- well, this is a little different, mr. gillett. You, representing the respondent, you have ten minutes with no additional donated time. Everyone else will have three minutes.

>> Okay. Very good. and time can be donated to individuals after you are signed up for three minutes.

>> Explain that again, urns? you have ten minutes.

>> I have ten minutes, yes.

>> Mayor leffingwell: period. All those others who are signed up against will have three minutes, but they can have time donated to them.

>> I understand. Okay. If someone would sta the -- I think you-all know where the allan house is this is a structure that was built in the late 1800s, and my clients acquired it approximately ten years ago, and at a substantial sum of money they restored it to its grandeur today. As you know, my clients also have -- run a law office upstairs, and the event venue is held in the downstairs of the facility. That is a view of the outside area of the allan house. That's just some items that -- examples of what's happening in an outside facility. That's a depiction of where the allan house is located, and this is a primarily commercial area. Our zoning is cs-1. All the red-contained block areas in the allan house is in the star area. That's all commercial property. Those are the three residential-used properties, not necessarily zoned properties, but used properties in the area. The one to the north of the site, that individual -- a family member of that individual is here today to speak to you in support of allan house. The one to the left, that siff and stowell, and the larger triangular area is i understand to be the regency apartments. Mitigation measures. My client has been diligently working with city staff for several months to address what they hear to be concerns about noise. That noise problem in part of the permit requires that they do decibel readings an an hourly basis. We have the book, the log here, and the manager of the allan house is here tonight to show you that log that shows the readings on that log, and these are all

readings that are at the perimeter of the property, and all the readings are 70 or below on that. In addition, they are required to have security on-site, which by their lease agreement -- security on-site, and they have a manager on-site during the times of these events. There may be some instances where noise got out of hand. I'm not going to say that there couldn't be an example where that happened, but all those things happened before the mitigation acoustical fencing that was requested by the city be installed. That was just recently completed. My clients met with city staff, don fitz and his staff, they suggested what we do first is the acoustical fencing, and that was put up recently, and last night I know your aides received notification of a test that was going to go on. We felt that in the chance that there might be a hearing today, that what we'd like to do is crank the sound up there with the dj that we brought in and have that testing be done, and we have some video that we are going to show you, I believe if the technology works here, that shows earlier testing we did and testing last night. I physically was there, present, and at decibel levels in excess of 70 you could not hear the music at mr. stowell's house. That was a dj. Now, I understand there may be some issues with a live -- live music, and that's why I wanted a postponement so we could put some live music there, see what additional mitigation may be appropriate to help the sound. I don't think there's any question that appropriate use is this as an event venue. The issue is should this be outdoor music. This has been very, very popular, and you'll hear testimony about that not only from the dj who was there last night and the process they went through, also from the manager of the facility about the facility, and how important this has become as a wedding venue. Wedding venues -- I'm not a wedding planner, but it's my upping that the need for outdoor music is an important aspect of that. A bride does want our band or her dj. We've got -- so you'll know, we can provide documentation on this. We have four events that are scheduled with outdoor music starting saturday. If you deny this permit, I'm in immediate breach of that contract because they require outdoor music as part of the event. I have four events for the rest -- we have four events for the rest of this month. I believe five that require -- that are providing for dj music, in january. So there will be nine events that will be directly impacted by your decision today. We stand ready to comply with the requirements of this music permit by keeping the decibel level at 70. I'm here to tell you I was there last night at decibel levels greater than 70. You can't hear the music from mr. stowell's house. Now, I don't question there may have been times when there was an out of hand situation took place. That's when the police were called. That's when a -- someone is fined. This operator has never been fined. They've been doing this for ten years. Your action could put out of business a very important piece of business for the city. It's my understanding that 35% of the weddings that are conducted at this site are destination weddings, people coming in from out of town to use this facility. We believe it's an appropriate location for this. We believe outdoor music is appropriate, appropriate outdoor music with the regulations that city staff has suggested be there. Is the powerpoint -- attached also is numerous letters of support from multiple charity events that utilize the allan house, and they believe that it is important to have outdoor music as part of their event to encourage attendance to raise money for these events. Mayor, council, you're being asked to stop a legitimate operation that benefits the city from essential one neighbor and supported by a neighbor that's two or three blocks down the way. You don't have an outcry of neighbors standing up and saying, "i can't sleep at " the basis for the appeal, as I argued in the standing, they've asserted you have technical requirements. You have to set out your basis for the appeal. Theirs was use. That is a moot issue, and greg guernsey certainly can address that issue. We have a temporary use permit. You have a 13-page letter as part of your backup that ad nauseam tells you the history of this situation, and ad nauseam tells you that you have on your hands a serious issue here because there's not technically a use classification that deals with this issue. You have outdoor entertainment that deals with spectator events. This isn't about that use, because we have the underlying use and the temporary use that we're allowed. This is about the outdoor music permit, and the -- I'm asking you to deny the appeal, put on whatever reasonable parameters you think ought to be there for the next through months for that and ask us to do sound -- do additional testing. Ask for the testing to be done by city staff at whatever levels you want to do, and if after that testing it turns, you know, we need to have the subwoofers from being prohibited from being there, that's something that makes reasonable sense, but to just blankly -- blankly deny this permit, it's to me, council, is overreaching and very damaging to a legitimate business here in town. With that, mayor, I will pause and you can call the other witnesses in the order that they're there and they'll give you testimony. If I have any additional time I'd like to have whatever rebuttal might exist.

>> Mayor leffingwell: okay. I don't know about witnesses, but we'll call additional speakers.

>> Judge, I think I flashed back to my courtroom days with my z-pak. try not to flash forward. So the next speaker is daniel ross. Daniel ross here? And h seanty moteliwski, donating time to you. So you'll have up to 6 minutes.

>> Good afternoon, mayor, council, my name is dan ross. I'm the owner of the allan house at 1104 san antonio street. I'm an attorney. I practice at the courthouse. I represent individuals who been aggrieved, injured. We do employment matters and we've handled a number of high-profile cases here in austin, in the city of austin, and we do a good job for our clients. When I had just been a lawyer for three or four years I officed in a building across from the courthouse, on the other side of the allan house, and I began to notice the allan house. It had a big "for sale" sign on it, and I wanted to -- i thought it would be a fantastic place to do -- have a law office and to remodel -- or renovate and bring back the historic character of that house. It was built in 1883. I went to the -- it was in an estate. Actually the house used to be owned for a period of time by the city of austin. It was given to the city of austin in 1888 when alan, who built it, john alhan died and left it to establish an industrial school on behalf of children in texas, the first of its kind in the state, and and later on you can go to what is now the acc campus downtown. -- used to allan high school. So I'm very -- very proud of the house and I've been a good steward of the house, one of the things I do and one of the things i originally did when I went and bought the house, i talked to the owners, who had been -- again, were in an estate, and the lady that lived there died, and she had lived there for 97 years. I told them I wanted to make it a great place, but i wanted to have the people of the city of austin to have access to it, and I wanted to do weddings and events there, because it was a perfect location for it and a perfect place in an otherwise what I would describe as a fairly deserted neighborhood. They had just built the criminal justice -- criminal justice center, which is right across the street from us. The marion sweat courthouse is right across the street from us, and it's an inhospitable area at night. It's dark. There are people who have -- who are residents of the alley. We've taken that house and we have lovingly restored it. In that time I have not asked for one dime in tax dollars. I haven't asked to -- for a tax abatement for an historic purpose, even though councilman riley and I have discussed it. The house would be perfect for an historical designation, but what I did was I created a place where good things happen, and they happen there now every weekend, pretty much every weekend except, obviously, when there's a tough one for outdoor events, and summer is tough as well. People come there and they have a really great time, and they get married and they write things and say that it's the most wonderful place, that our staff is great, that it's -- it's a magical location. And I just think it would be a shame -- don't get me wrong, I'm not going to stand here and tell you that it's something that is a -- you know, I'm a businessman. I'm not going to tell you that I'm going to go broke if we can't have events at the allan house. I know that I wouldn't put a dj or a band inside the house because I don't want to hurt the historic character of the house. It's small inside. It's cut up into rooms, and the largest area is probably, I'm going to guess, 14 feet by maybe -- maybe 35 feet, maybe 40 feet. It's a smaller house, but in combination with the outdoors and the porches, it's a great place to have events, and I hope some of you have been to events there. We have made it available for nonprofits. I have never charged a dime for a nonprofit to have their profit charity fundraisers there. I seek them out and want them to have them. We have had numerous judicial and other fundraisers there. I have let the travis county judges from the criminal side -- I don't do any criminal law -- I've let them use the allan house on frequent occasions for their regular meetings when they want to get away from the hubbub over there. I've been a respectful neighbor. I have tried for -- and I've been doing this for a number of years. We've started doing events in 2000 -- and that buzzer was the end of your allotted time.

>> Shall I -- what is your name?

>> [Inaudible] laura nowatni is donating three more minutes to you.

>> Thank you, laura. We've done a good job there. We have excellent weddings there. Let's talk about the sound and the sound problems, and I'm not going to sit here and tell any of you that there haven't been sound problems. There have, and they've come from albert stowell's house and they've come from ted siff, who lives down the street, two blocks away. Because of the -- I've hired acoustic engineers and

I've had them come out there, and because of the topography, because of the fact there's two sheer concrete walls across the street from me, the fact that the topography goes up and down, there are sound problems that go -- because the sound travels that way in a tunnel. What we have done is tried to mitigate those sound problems, and we've installed the fencing. That's what the city recommended, and my understanding was in the last three months after the other side -- the appellant asked for a continuance, or whatever this is, a postponement, and we granted it, that's fine with us, but we did not request a postponement. In fact, we wanted to do the hearing -- or this at the very next council meeting, but they couldn't do it until december. We said fine. We just finished installing the material, and last night was the first test, and don pitts from the city was there. He walked down, we set it up. We put it louder than it ever goes, and we put it behind the fencing where we now want to locate any sort of dj or band, and we went stowell's house and took measurement/s, and there was no -- measurements, and there was no a preeshable difference -- appreciable difference from stowell's house from when the muse was on and when it was off. stowell had suggested that we have been trying to negotiate. I will say that for three years in talking to stowell, the only negotiation that him or the neighborhood associate or tolette has given me is a demand that we keep our sound under 50 decibels. When you stand in the yard at the allan house, the ambient sound is 58 to 64 decibels. In the city, the city themselves went out and took an ambient sound reading and it's 64 decibels. You can't hear in the allan house yard amplification. We had an ininvestature jim -- i know what that is now. now you know what it is.

>> Can I get another three? thank you very much. What is your name? Okay. Scott urdell can donate another three minutes. That will be a total of 12. Scott urdahl, city clerk.

>>> You can't achieve a 50-decibel limit on live or recorded music if the ambient noise level is above 50 decibels. When they asked us, could we do something about it, i said sure, we'll reduce it to 75 decibels. We later had a hearing to get a parking variance for a -- for what we believed at the time needed to be a conditional use permit, and the parking variance board said, well, you can do it at 70 decibels. Since that time we have complied 70-decibel -- 70-decibel requirement. We walk around once an hour. You can hear more from some people who work there and do it, but we walk around once every hour and take readings. And if it's anywhere near 70 or above 70, we have the dj or the band turn it down. What I would request is that rather than -- well, first i request that you deny the appeal, but if you are leaning towards granting the appeal, then I would ask that it be granted with some sort of provision that the city of austin can come down there and set up their equipment and actually perform tests themselves, without my input, and try to determine what really is going on here, and try to determine the efficacy of the sound mitigation things that we put in place that here to now we haven't even had a chance to see if they work because we haven't had an event since they've been up. That's what I'd ask, and I'm a believe in things that are good, and this place is good, and I am not a believer that the city council of austin would take away this for the brides that have booked there and have made it their choice for their perfect wedding day. And lastly I want to address, music is an integral part of weddings and events, and it's not so much the wedding, but it is the reception, and people want to dance at the reception. And I will pledge that i will do what it takes, within reason, and reason being it's got to be -- have somewhere of an economic -- it's got to do something other than destroy the outdoor character of the place. But I will do what it takes. If the city staff tells me i need to build a structure, then I'm certainly happy to build a structure. I'll do what it takes to keep the neighbors from having problems or whatever neighbors are complaining of and that's -- I would ask for your consideration. Thank you. thank you. Next speaker is jim terry. , Signed up against. Three minutes.

>> Hello, my name is jim terry. I am an attorney, and I work for dan ross, and I work at the allan house. And I've been very involved in this process since the very beginning. We have done everything the city has asked us to do. We have put in every -- all of our resources to make sure that whatever mitigation can occur happens. The other night we had a video done, and he's got the video. Across the street at the criminal justice center is a generator that kicks on for about an hour. It's -- I think it recharges the backup batteries for the building. That generator puts off about 75 decibels on our porches, and we hear it, it's every monday about 00 and it goes on for an hour. We took some readings on our porch, and in that video you'll see the readings of 75 decibels from the generator, and then we went down -- it's a rudimentary test to show sort of what the new mitigation procedures and measures we put in place --

what they do, and based on that test and the video you'll see, it's about a 14-decibel reduction. So I think that these mitigation measures that city staff helped us create and implement are going to work. Do you have that video? And the aspect ratio the video is a little off. Sorry about that, we did it quickly. But as you can see, this is our porch, 75 decibels, 73 down at the -- in the yard. And then this is 61 decibels, right in the corner where this new a cousta fence, and there's ross showing it and the justice center right behind. So we believe that these measures are going to work, and we think that with some time to test them, to take the readings, to do whatever else the city wants us to do, that we believe that these measures will wor. And I enjoy working at the allan house. I like -- I deal with people's problems every day as a lawyer. Having the events there, the weddings, the happy things, makes my job that much better, and we would ask for you to deny the appeal. thank you. Next speaker is whitney huber. After whitney will be rose ann vishiayguerre.

>> Good afternoon, I'm whitney huber. I'm the manager. Allan house. I've worked there over two years. I started there as an intern and I became a part-time assistant and then was promoted to manager. I just want to kind of reiterate how diligent my staff and I are during every event and every wedding that takes place with taking sound measurements at all four corners of our property line to make sure that everything is under 70 decibels. I have with me all of the records over the past few months that show my staff and I's recordings of these decibels taken at all corners of the property, and you're welcome to look at those if you'd like. We've done everything that we can, myself and my staff, in making sure that we are in compliance with the sound permit that we currently have that states that we have to be under 70 decibels. Although there have been complaints, the police officers that my staff and i have dealt with have never found a problem. There's never been a citation issued. They've seen our measurements. They've taken the sound measurements themselves, and they see that we're in compliance. And, you know, we understand that maybe even though we're -- we are in compliance with the current sound permit that maybe that's not completely the answer. We're willing to make whatever concession it can take to make sure that these weddings can still happen at our location. I'm here before you on behalf of the 70-plus brides that have weddings scheduled to take place at the allan house over the course of the next year that have spent time, energy, money planning their perfect day, and if this sound permit is revoked, their perfect day, it's not so perfect anymore. They're going to have to find another location. They're going to have lost money, time. It's going to be emotionally draining on them, and I -- i won't know how to break the news to them. So I just ask that you consider not to revoke our permit and that you please maybe brainstorm with us on other ways that we can make this work and we can keep the allan house in business, because it's a gorgeous location. It's really unique. It does bring in people from outside the city of austin to have weddings and special events there. People love it. I mean, I've got reviews, I've got testimonies that i can show you. I'd love to have you come visit and see the place in person. So I thank you for your time and I hope that you'll, you know, consider our request and really see that we're trying to do whatever we can to make it so that we can, you know, work with our neighbors and within our community. I love my job, but I really stand before you on behalf of all of the future weddings that are going to take place. So -- would you like to see these?

>> Thank you. You can pass them out at the end. Council I, we have one person that signed up late after all the speakers had already spoken, in favor of the appeal. Some question about going back to that speaker, but in the -- since this is a quasi-judicial hearing, i think it's our best interest to hear all the speakers, go back to that speaker in favor now. Ted siff. And city clerk, can we close out the sign-up on this item?

>> Thank you, mayor and council. My name is ted siff. I'm here before you as an individual property owner, owning a property less than two blocks away from the allan house, and as the president of the original austin neighborhood association in which the allan house property exists. Let me make very clear that the neighborhood's position and the appellant's position is not against live music. It's not against music. It is against amplified music outside of the allan house. We are for acoustic music outside and amplified music inside. I'd offer to you that there are numerous venues throughout the city and in this neighborhood, at least one, that uses that business model very successfully and it doesn't have the underlying support of being a law firm during the day. The caswell house operates with acoustic music outside, live amplified music outside, green pastures, mercury h umlaff. This is a venue

that seems to be very popular. I know when I tried to get a date for a wedding at the umluff sculpture gardens it took me six months to be able to do that, but happily we were able to do that. I would also point out that the neighborhood association has successfully negotiated a combinations with live music venues on the perimeter of the neighborhood association, woodrow to the south and other venues around have all come to the neighborhood association during the last three and a half years when we've been trying to come to an agreement with the allan house, we've successfully dealt with each of those situations and they all operate without outdoor music permits that the neighborhood has been able to support. The current law is very difficult to enforce. I think staff would agree with that. Perhaps your own experience is that. And I would point out to you as an example of that that there have been four pages, not four individuals, but four pages of complaints during the last three years. No citations, that's offered an example they haven't violated the law. There have been instances, I'm one of those complainants, and because of the to beography, my 9-year-old and 13-year-old, when they were younger, a year and two years ago, were woken up at night because -- maybe it was in compliance, maybe it was out of compliance. I know I could sing to the songs inside my bedroom word-for-word. That's loud to me, inside my bedroom two blocks -- about two blocks away, and that was what happened last night when city staff was on albert stowell's porch. Thank you very much for hearing this on your last meeting of the year and i appreciate the time I've been given. I'd be happy to answer any questions if you have them. thank you. And also signing up for is natasha helm. Natasha helm. You're signed up for, correct? You're for the appeal? Which means revoking the music permit. Okay. Well, I suggest you change that and then we'll put you in the other column. All right. So now we have rose ann vishiay guerre. Did I say that right?

>> And I want to thank you for this chance to speak. I am in complete support of the allan house and ask that the council give the house its support. I hear a lot of technical information. I am, in fact, a neighbor just next door and have been a neighbor to the house since 1968, and it's where i grew up and have lived off and on until recently. I'm now in hyde park, but I'm often at the house several times a day where my mother lives. And it is very difficult for me to be here this afternoon. I'm absolutely poor at public speaking, but I feel it's terribly important that the house receive all the support that it can receive because the neighborhood is so tricky, and I have seen it over the years change and have lived through many of those changes. ross says that this house is about good things, you know, I witness frequently when they have events the excitement, the magic, you know, the wondrous things going on in the house and the people that it's bringing to the neighborhood, which otherwise can be very desolate and deserted during nonbusiness hours. My children are there in the house, and the fact that the security guard is in the alley is really very important for us for some of the occurrences at this house immediately next door to the allan house and to the criminal justice center and the jail, and I've come this afternoon because if the allan house doesn't receive the permit, I feel, having been a bride myself once, that it won't have the weddings and that the people coming into austin that are diverse and, you know, bringing the best on these special days, won't come, and that ultimately that's going to be a very sad thing for this historic house next door, which is the kuhny house at 501 west 12th street. I personally have found ross and all ofis staff to be incredibly polite and nice. He's met my children focusly. He's spoken to them about anything regarding the house and noise, given us his cell phone number. I can't imagine anyone doing a better job at running this house, and that it could be done any better than it's being done by everyone there. I have no interest other than the preservation of the house that my family has lived in and I hope will continue to live in since 1968. And I'm here to say that, and I guess that's everything. thank you. Natasha helm, do you want to speak now? You have three minutes.

>> Hi, I'm natasha helm. I've been working at the allan house since march, and at that time my first wedding I shadowed with whitney huber. Then I started as an intern, and since that time, since june, I've been working almost every month and lots of weekends, lots of weddings, lots of events. So every time I am instructed to go out with a decibel reader and I stay under 70. We started at one corner with the security guard and we go around to four different corners, and when the music changes after the ceremony to the reception and the band is a little bit louder, everyone is eating dinner, we go out a couple more blocks, to nueces, and we take the decibel reading. There it's -- you can hear the music, but it reads at 65, and you can see in the notes that whitney gave you that there are many times i have signed it off, i initialed it, and those two blocks away it is under 70 very well. Anytime that the music is

too loud, I will tell the dj or the band to keep it down, and even before the event i always make sure I tell them, look, we have to stay under a certain level and you make sure -- to make sure that we do I will come in and let them know if it's too loud. So there have been times, yes, when the music was quite too loud, but at that moment in time I go straight to the music, whether it's a dj or a band, and I tell them turn it down. Any other questions I would like [inaudible] thank you.

>> Thank you. ashley ayton. Either podium will do, whichever is the closest. You have three minutes.

>> I'm ashley slayton. I've worked for dan ross since 2000. We moved into the allan house in may of 2000. In the 11 years one ticket has been written for the allan house and it was dismissed. Of all the complaints that were, and I'm aware of the complaints that the city put together, I'm not aware of four pages of complaints instead of four complaints, regardless of how many, no tickets have been issued. No violations have been found by apd. If the music from the allan house was making the neighborhood a nightmare for every person who lived there, I have no doubt that apd would be very capable of tracking that down, issuing tickets, enforcing the law the way that they're supposed to. I was at the allan house last night. The mitigation materials ross has spent approximately \$9,000 installing over the past few weeks were just finally placed over the past weekend, and we did invite pits and mr. murray to come. We had a dj come out, set up for an event as he would, and play the music louder than he would for an event. We took readings at the corners and made sure the reading at the property line was more than 70 decibels, which is what we've been keeping it at. We even went down to stowell's house and took readings and the reading was about 54 decibels in front of his house. stowell came outside and was extremely upset that we were there conducting this test, and he told me and ross and the large group of people that was there that this was a manipulation, because the noise from the allan house was never really at 70 decibels. It was really at least 150 decibels and unbearable inside his home. He's come here to you today, and he has said that at 70 decibels the noise is unbearable in his home. It is only fair, in my opinion, for council to overrule this appeal, allow the mitigation measures that have been put in place to be tested, allow the city, murray, who have worked really hard on this, to complete the job that they have started. It does protect the neighborhood. There are few people that we are awa of who are pitts, murray are very willing to continue to do testing, to bring out city equipment to do testing. Councilman riley was kind enough to come by last night. He indicated that he thought it was a good idea to do the testing. Test -- let's see if it works. We've done our part. ross for 11 years comply with whatever the city wanted him to do, follow the rules, do what needed to be done. I've told many a dj to turn it down over the years when I was managing events. We have banned bands that were noncompliant. Please let the allan house continue to operate under the terms that we've agreed to with the city and we have complied with. thank you.

>> Thanks. laura waltz.

>> Hello. My name is laura waltz, and my partner is over here. I am half of the dj group that came out last night to help them with the readings. We set up in a corner of the allan house where we typically set up for. For every event we do about one event a month there. And we have since the beginning of this year -- we have at least five or six events scheduled throughout the next four months or so, so, you know, this is affecting that as well. So back to the testing, we typically have our bass turned down very, very low. You don't need very much bass at these events because they're weddings. We had our mixer turned up 40 to 50% higher than we do at any wedding at the allan house, and they were still able to meet these requirements, decibel requirements, with this sound fencing. Sorry. So I just want to say, you know, please go to the alan -- give the allan house another chance. We need it there quite often. We love this place. This helped us get established as a dj company. These weddings that happen there, we get very close to these brides, and it is a gorgeous venue. It is perfect for this, and they are exactly correct, of all the events that we do there we set the speakers away from the complainant's home, and I have walked around with the staff as well with their decibel reader making sure that we compliance with the decibel reading. So I've also, you know, been walking around with them to make sure that we are always in compliance. So I would like for you to just give them the opportunity to make this fence work and we are also in compliance with them too. That's all. Thank you. thank you. Ross phillips?

>> Good afternoon. My name is ross phillips. I'm the owner of look no further entertainment, the dj company that came out and did the testing last night, and also we do, as laura said before, we do quite a few events at the allan house, about one a month. As a dj company who performs at wedding venues all over the city, I can say that the allan house far, far and away is the most diligent that I've ever seen to try to comply with this noise ordinance. We live in austin, texas. It's the -- one of the most beautiful geographic places in the country, and because the university is here, a&m is down the road, texas tech, 50% of our weddings are destination weddings, that's a huge part of our little economy. And I grew up in austin my whole life. I grew up in a house somewhat similar to the allan house. It's very unique in its historical nature, and as everybody said before me, good things happen there. And we are always 100% -- we try to be 100% in compliance. The complicated thing about a decibel is it's a measure of pressure. It changes on a daily basis, and so these girls are at the edge of this property every hour with this reader and this notebook, and the only way to measure a decibel is with this reader and this notebook, and i just urge you to let the -- let the acoustic fencing do its job. From what I witnessed last night, it definitely works. We turned -- as she said before, we turned our equipment up 50% higher than we ever do, and they were getting readings that were well under the 70-decibel limits. So thank you for your time. thank you. Those are all the speakers that we have signed up for or against. And so now we'll go to a rebuttal by the appealing party for three minutes, and that would be mr. stowell.

>> Thank you, mayor. I think you've heard of -- from everybody, including the allan house that it has been a problem, an ongoing problem, and I have labor over this issue diligently for several years now, and by supporting my appeal, revoking the license, it will not affect their income. They will have an inconvenience of calling their dj's, their bands, their brides, that the amplified music is going to be inside. It's a huge area inside. It's almost the same size as the outside patio area that the band sets up, so although it might be an inconvenience to change their business plan, it would bring them in compliance with the community's desires. It will bring compliance with their zoning. It will eliminate the staff's efforts that have been ongoing to try to find some way that they can be legal, and it will ratchet down the animosity that has been created in the community, and it will bring me personally some relief. So I ask that you support my appeal and revoke the current license -- permit. thank you. So those are all the public comments. Council, questions for anyone, or a motion? And the options would be to grant the appeal, which would have the effect of revoking the temporary permit, to deny the appeal, which would continue it, or to modify the appeal. Council member shade. I have some questions. So could you -- from staff. Can you -- I don't know who would be the person I need to be asking this. Greg, I guess. So the temporary permit expires when if this appeal was not granted, when would this expire? actually, this doesn't have any effect on the temporary use permit because the temporary use permit is dealing with the activity but not necessarily outdoor music venue. The amplified sound. the outdoor music permit, when --

>> expires next march. The temporary use permit i believe expires tomorrow, but that in and of itself doesn't change the ability of them getting future temporary use permits, but the appeal before you deals with the amplified sound, which is very much an issue of this appeal. I'm sorry for my confusion, but the amplified sound, as of tomorrow they're not allowed to have it or as of march? no, the temporary use permit allows them to have basically the wedding function that's occurring right now. right, they have -- the amplified sound allows the band, the dj's, anything with amplified music, to occur outdoors.

>> Shade: right. And when does that expire.

>> This march or next march? this coming march.

>> And what day on this march? Do you know? I meep, how many days are we talking about? March 16? the original permit was granted on march 15, so its anniversary would come up march 15, i guess, in 2011.

>> Shade: okay. So what I'm trying -- what I'm trying to figure out, i mean, I actually have been to events there. I have out of town guests who have stayed at my home to attend out of town, you know, destination weddings like you've just described. I have lots of experience with people who have told me

when the officers have shown up, and I think that it's important to note that just because tickets or citations are not issued does not mean that the officers aren't there, that that's not taking away from the other duties. Clearly there's been some problems with sound and not abiding by deadlines and scheduling, and clearly it's the neighbors that are really unhappy, but it does sound like there is some possibility for new mitigation that's been put in place. I did go there yesterday for an earlier event but wasn't able to see the demonstration. So I'm trying to kind of gauge. I mean, basically what it sounds like you're saying is if they -- if the appeal is not -- if they're not -- if they don't lose their -- if the appeal is not granted today, then they will have to come and reapply sometime before march 15? if the appeal is denied, then they can continue. If the appeal is upheld, we would revoke their outdoor music venue permit --

>> shade: of as of today. yes, as of your action. so I mean, the option for putting some pretty strict -- you know, some -- increasing restrictions or putting some modifications until the existing outdoor music permit expires is -- we have that as an option? you have that as an option, and you've done that on other outdoor music permits. You have granted -- or denied the appeal and added conditions to the outdoor music venue permit, and you could do that this evening if you wished to do so. what kind of conditions are you talking about, like limits on decibels at certain points or -- you could -- you could further limit the decibel level. You could limit -- further limit the days of operation. or the hours. you could affect the hours of operation. As you've heard in testimony -- and don pitts could not join us here but david murray is here, who is, I guess, our sound engineer for the city of austin, and he might be able to speak to the things that have -- they've done on the property, and I'm not sure if there's further things that could be suggested or not. I'm not -- I am not a sound engineer, but david could probably speak to those additional things that might be offered to help, and i think you've heard tonight from the owner of the property that they might be willing to do some additional things, within reason, to try to take care of that. But I couldn't speak to those directly. council member spelman? I've got a lot of questions, but the first one I've got, is there somebody here who can speak to the theoretical effectiveness of the sound wall they installed? on behalf of the city I'd ask that david murray come up from egrso and he could probably speak to the acoustic blanket that's installed on the property.

>> Spelman: yeah.

>> Hi, I'm david murray. ross and suggested they apply an acoustic fence material, which they have done. We try and be mindful when requiring venues to -- mindful of budgetary considerations when requesting sound mitigation measures be placed, so we do it incrementally. The first steps seems to have been effective. There are other things we can do. I was going to ask you, sir, how effective is effective? If we're talking about 70 decibels worth of noise in a corner of the fence line, inside the fence, how much of that is going to translate outside the fence and then what's going to happen two blocks down?

>> Well, the product i recommended they install as a trans- -- has a sound transmission classification -- I believe it's a reduction of 16 decibels across a certain frequency range, which is inclusive of bass frequencies.

>> So if it's 70 decibels inside the fence, I walk around, go to the other side of the fence a few feet away, I mesh it, it should be 54.

>> 16-Decibel reduction.

>> 16-Decibel reduction. And this fence was installed how long ago?

>> I believe they finished it this week.

>> This week. So this is the first chance to test it out.

>> Yes.

>> And they have not tried any events at the allan house before the fence was installed?

>> Prior to this there have been no sound mitigation measures along those lines that I'm aware of.

>> Spelman: okay. So at least from a theoretical point of view if we're talking about 70 decibels going right across the fence line into stowell's front yard two weeks ago, now we should be talking something like 54, 52 or decibels going to his front yard.

>> Correct. which is a dramatic reduction and ought to solve the problem?

>> Yes, and I would just add if these measures aren't sufficient, the next step would be to construct a three-sided structure with a roof that would further contain the sound.

>> Have you, yourself, sir, had a chance to check the decibel --

>> I wasn't there last night, but I have been there on another occasion before the material was placed, and I could see how there would be a problem. They are up on a bluff and it's elevated and there are hard surfaces all around them. So, as I said, the first step I recommended was the first step of a multi-tiered plan. I didn't catch what you said a few moments ago. What would the next step be if they were to ask you for further recommendations.

>> I would suggest building a three-sided enclosure around the performance area like a roof.

>> Spelman: like a shell.

>> A shell. I think that would be effective.

>> Let me quantify effective. What do you mean by that?

>> A further reduction of 12 to 16 decibels.

>> Spelman: okay. So we go from 12 -- on top of the 12 to 16 decibels that we've theoretically gotten by putting the wall, then you'd get another 12 to 16 on top of that?

>> By constructing the shell.

>> Spelman: okay. So from 70 we go to around 54, we go to around 40? Do you really think we can get that low? It seems like it can't possibly add up. I mean, 40 is a whisper.

>> I hear what you're saying. Oh, yeah, greg is reminding me that the ambient level is 64. So with no sound amplification all the ambient sound is 64 decibels.

>> The ambient in what conditionses? Having the acception? when I took that measure him. I understand your point it sounds impractical it would be 40 decibels. That's not what I'm suggesting, but by containing it with a shell it would be very effective. It -- preventing it from going to the complainant's property.

>> The basic point you're getting at is there are still sound mitigation things they could do on-site which would further reduce the problem for mr. stowell?

>> Yes.

>> Spelman: thanks. so before you leave, this is always confusing to everybody. I mean, everybody assumes we're talking about a linear level of sound, which is not the case. It's a logarithmic increase

with regard to decibels. So if you talk about increasing the decibel level from 70 to 80, for example, you're not talking about a 13% increase in the sound level. You're talking probably more like twice as much, right? Twice as loud.

>> A perceived doubling, 10 decibels additionally is perceived doubling, or reduction is a perceived halving. So if you reduce it by ten it's -- so if you have 85 decibels, which is fairly common for outdoor music venues, that would be -- that would be like almost three times as loud --

>> almost. -- as -- so I think it's very important to keep that in mind because it doesn't sound like very much of an increase, but it's a huge increase, and I almost wish we had a different way to measure it rather than db because it is always -- we have the suggestion every time we talk about noise permits. Council member morrison -- and before you speak, council member, we are past our time for live music and proclamations, and it does sound to me perception is we've got a few minutes more of discussion here. So if that is correct, i think we ought to pause this discussion on this item, go to our live music and proclamation and resume back at this point on this item with council discussion. "Big bird, little bird" " clin randi shade

>> shade: okay. If anybody is having a conversation, please end it or go outside because we are now about to start a really fun part of the evening, and that's our live music and proclamation section of the meeting. I always like it when the mayor lets me do this so i want to welcome you-all. Joining us today is singer songwriter charlie faye. Charlie moved to austin in hopes of finding inspiration. He did just that and inspired hundreds of others along the way. During her travels with charlie, bohemian adventure and tour charlie traveled and lived in ten different cities forming ten bands in each town. She got to know the people and personality of each place she made her home. The pom along her pathway were not simply observers of her adventure. They became part of the story. He album, wilson street, is an eclectic mix of songs she composed while living on infamous wilson street. I don't like the word infamous. It's more than that. It's famous and wonderful. With her music incorporating sounds of americana, rock 'n' roll, country and blues, please help me welcome charlie faye. [Applause] [♪♪ music playing ♪♪] [♪♪ singing ♪♪] [applause]

>> shade: fantastic. Thank you all so much. Before I read the proclamation that we have for you-all, I just am curious if you have a web site, if you want to tell the people out there watching how they can purchase your music or see you performing next.

>> Yeah, my web site is com, f-a-y-e, and charlie with an i-e, unlike the original travels with charlie. Our next show is on january the 6th at sacks and public.

>> C-a-r-l-i-e-f-a-y-e.com. And january 6 at sacks and pub. Can we purchase music on your web site?

>> On my web site and also itunes and all that.

>> I really enjoyed and it i know everyone else did. I'll right the prom oh proclamation. Be it known that the local music community makes many contributions to the social diversity and whereas the dedicated efforts of fartherists further austin's status of the live music capital of the world, now, therefore, i, on behalf of lee leffingwell, mayor of the city of austin, texas, do hereby proclaim today, december -- well, actually he put december 14 -- [chuckle] but 2010 as charlie faye day. So congratulations. [Applause] sax and pub sacks and public sacs and pub we're all looking sara hickman. There she is. I was looking over here. Welcome. Come on up. You look beautiful.

>> Well, so do you. no, I don't so it's my privilege tonight to recognize one of austin's great legendary musicians, local musicians, for her -- for her work in supporting live music in austin, texas, and I have a certificate of congratulations for her award-winning dvd entitled " sara hickman is deserving of public acclaim and recognition. Already a credit to austin as the official state musician of texas for 2010-2011. Sarah is bringing additional attention and honor to our city with her new dvd, the hickman's soothing songs for newborns, 5 years old was a thorly awesome production with filming, animation and graphics

all done locally. "Big bird, little bird" has recognized by the national association of patenting publications, parents' choice, book list, mom's choice and dr. toy. I am not familiar with toy but I'm sure you are. [Laughter] the video also is up for a carnegie medal, which is a national award-winning award honoring the most outstanding video productions for children. This certificate is presented with our congratulations on the many accolades she has already received and with her best wishes regarding a carnegie medal on the 16th day of december, 2010, by the city council of austin, texas and signed by myself, lee leffingwell. So congratulations, sarah, and I want to let you say a couple words but first council member shade would like to also give you a few pats on the back.

>> Thank you. well, I was so excited to see that this is -- that sara was given this recognition. I know the song. I actually -- I won't sing it because I only -- I only disturb my children with that. But she's actually -- her stuff for kids is just incredible, and I wanted to say another thing. The holiday season started, really, the week of thanksgiving, and sara is an amazing giver to this community on so many fronts, and we started the holiday season with the memorial service remembering those that were homeless who lost their lives this past year on the streets. She performs there every year, does an amazing job, and we talked about this earlier this morning, about ways that you can help by donating for people through the -- house the homeless.org web site. Sara has helped raise a lot of resources to help people get long underwear and hats and scarves who are living on the streets. In addition to that I had the pleasure last friday of seeing sara perform at blue rock, which was just amazing and then we ended up at a baby shower on saturday. So I feel like I've really seen a lot of her this holiday season and I feel really blessed to be able to do it. She's an amazing resource in this community and I wanted to be here to say congratulations and thank you too. [Applause]

>> I'm completely honored that -- for this certificate, and for the love that everyone on the council has shared with me and my family. I love living in austin. It's such a prolific, artistic community. And I want to say thank you because, as you know, we can't be creative on our own. It takes a whole family to make things happen. AND I DID BRING DVDs FOR Everyone on the council, so if they want one they're welcome to have one. I'd first of all like to thank my life-long musical partner martin lester, also known as marty, who's sitting right over here. I've known him 20 years this year. [Applause] marty has recorded probably TWO-THIRDS OF ALL MY CDs, All my children cd z and sound and audio engineering was done by marty and he works at tequila mocking bird which is a great studio and helped us tremendously on many projects. So thank you so much, marty. This dvd wouldn't even exist without our friendship and support as an engineer. Then I'd also like to thank the executive director, alan luky, who I don't see here tonight, but alan is a huge supporter in the community of funding musicians and artists who are look for resources and helping us find resources. He paid for the creation this dvd, and I would like to personally thank him too. He's a great guy. So let's give it for alan, wherever he is. [Applause] and then of course it takes a producer to pull all the strings and get everybody together in the same room and on the same page at the same time, and that couldn't have happened without the beautiful and stunning and quite intelligent april beasley, who's sitting over here in the shar trucetruc sweater. [Applause] so thank you, april. I'd like to thank all the and mater from shiny -- animator from shiny objects, which is a wonderful company over in penfield that was put together by ron pippin, an amazing animator, and he worked tirelessly with all his animators, and he even let me animate one of the shorts on here, so I was so excited. So special thanks to shiny austin, also an austin company. [Applause] and I'd like to thank my husband, lance, shriner, who is here -- oh, he's back there in the brown jacket waiting for the turquoise shirt. [Applause] lance designed the packaging, and he's part of our group. There's five of us in our group called stingray design, which is also a austin-based company, so if you need graphics for your next cd or book project we can do that for you. I'm speaking, I'm forgetting somebody else. Oh, I'd really like to thank my children, lilly and nialana, who are sitting right over here, who inspire me every day. [Applause] and without them a lot of -- none of this children's music would have come to my heart, because they inspire me to create it, a than they both make appearances in this dvd. And I'd like to last of all just thank my parents. My parents have been such an -- an influence in my life. They taught me that to be creative is a great thing, and it's not something you put aside and wait for later. It's something you can always be in the moment with, and you can hold my hand, randy. Thank you. You know, I just want to see before I leave that families who create together do great together. So if you haven't had time lately to spend with your children and your loved ones, sit down and just have fun together, make

up a game or create a mission statement or make a banner or a flag or go outside with some chalk and draw on the sidewalk, but spend that quality time being creative. It means so much to them and they'll have memories that you can never take back. So thank you so much for this honor, mayor leffingwell. And thank you, randy. [Applause] and laura morrison too. I love her, wherever she is. we get to take a picture with you. so some of you may remember a few years ago when we launched this program for establishing backyard wildlife habitats, and we sought the goal of establishing austin as a city designated by the national wildlife foundation and the travis audubon society as a wildlife habitat city. We have taken it a long way since that time. We of course -- the city has attained that honor, I think being one of the only large cities in the entire country with that distinction, if i may say it that way. And we have extended the program to include a competition among neighborhoods to see who could get the most -- which neighborhoods could get the most back yards signed up as actual wildlife habitats. That program has been successful, and tonight we have three new winners, and first of all I want to recognize alice nans of our parks and recreation department. [Applause] I worked with alice several years ago to establish that program, and at that time she was with the national wildlife service and has since come over to a much better job with the city of austin parks department. So we have three proclamations, and we have three certificates of recognition. I'm only going to read them once. I'm sure you're all happy to hear that. But I will read the generic proclamation first. It says, be it known that whereas the city of austin strives to create habitats for wildlife within back yards, school yards, public areas, places of business and worship, and whereas the parks and recreation department wildlife austin program recently concluded its neighborhood habitat challenge. Winners organized wildlife habitat enhancement projects and certified the most individual residences as habitats with the national wildlife federation. These provide butterflies, song birds, humming birds, frogs, lizards, other species, food, whatever, cover and places to raise their young, and whereas boulder encreek neighborhood place the first with 14 new certified habitats. The heritage hills wooldridge neighborhood came in second with 10. You can clap when your neighborhood comes up. And the south wood neighborhood was third with eight new habitats. Now, therefore, I lee leffingwell, mayor of the city of austin, do hereby proclaim the bouldin creek heritage hills, wood ridge and south wood neighborhood associations as winners of the 2010 neighborhood habitat challenge. So congratulations to all of you. [Applause] I have to add before I turn it over that my own house is a national wildlife habitat in my in my neighborhood won this distinction a couple years ago, and in the meantime city hall itself became officially a wildlife habitat. I know -- I think some of you think it was already a wildlife habitat, but we're now designated as that. [Laughter] so I'm officially surrounded by wildlife habitat wherever I go. And we also have these handsome certificates of recognition for each one of the neighborhood association. We're very proud of you. You add to our community fabric. I appreciate what you've done, and offer you congratulations. Did you want to say a quick word, alice?

>> I just want to say thank you to all of our neighborhood representatives here tonight, and especially thank the folks that were the liaisons with the parks and recreation department for this program. These neighborhoods that have participated in the neighborhood habitat challenge this year and in the years past do contribute to improved wildlife habitat in our cities, and not only that, they are improving the community building in their own neighborhoods. I know that these projects that they do, they have to do habitat community projects, you know, in their actual neighborhood. So bouldin creek did a big plant project. Heritage hills, they also did an invasive plant removal project and planted a butterfly project, and south wood also enhanced their butterfly garden as well. So they're doing things in their individual back yards in addition to something that's beneficial for the overall community. So I just want to say thank you to everyone for their involvement, enthusiasm and support of the program, and we're going to do it again next year. So thawpg all very much, and if anyone -- thank you all very much, and if anyone from the neighborhood would like to come up and say a couple of words, you are very welcome to do that. So thank you.

>> I'm sarah clarkson from the bouldin creek neighborhood association. I'm very excited and proud that so many of our neighbors got this recognition and are hosting wildlife in their yard and very proud to be a neighbor of [inaudible] who chairs our parks committee and spear heads the invasive species removal project, which we wouldn't be here if it weren't for that. Thank you, ingrid. [Applause]

>> I'm missy bloodso for south wood neighborhood and I too am very proud of my neighborhood. We worked really hard to get people involved, and one of our members isn't here, nicole sanford, and she's been very instrumental in helping us clean up a little greenbelt area and getting rid of the invasive species and putting in the butterfly garden and wildlife, and wild flowers, and she has worked very, very hard the last five years, probably, and we have worked days where we involve -- workdays where we involve the neighborhood as well as some of the schools and other people, they come and do community service. So she's worked really hard and we too would not be here if it weren't for her making everyone aware of how important that is for the neighborhood. So thank you all. [Applause]

>> alice asked me to keep it really short, so alice and i work together on wildlife austin, and we were pretty excited to know both our neighborhoods had registered for this challenge this year. I just want to recognize al and nancy morgan, who spearheaded the effort in our neighborhood. They spread the word. They're the ones that got the ten registered habitats, and also we noticed that adjacent neighbors are doing those kind of plantings and spreading across the neighborhood. They organized and arranged the three workdays in the north acre park, a little gem of a two-acre park that the neighbors are embracing and are going to continue to do maintenance and care and put love on to that park into the future. And what they especially appreciated was the fun that the families had during their invasive plant removal projects and their plantings of the humanning bird and the -- hummingbird and the butterfly plants in that park. So I think it's a great program and I look forward to seeing it grow across the city. Thanks. [Applause] flush b flushb now we have a proclamation to honor our local radio station, koop radio. It has been my privilege, honor, distinction to have been in the koop studios on several occasions. Normally I would say during the course of a political campaign, and sitting alongside a few other people who were running against me, so they will remain unnamed. And david koberowski, as the friendly moderator, and of course he always does a great job and I always enjoyed my experience there at koop. And a lot of you know that koop has faced some really serious challenges over the last few years and came through. They're still operating. They're still in business. They're still doing the work for the community, and so we want to tell you how much we appreciate you and thank you for what you do. And I'll read this proclamation. Be it known that whereas, 7 fm has served austin, texas for 16 years with high-quality, innovative and diverse programming, emphasizing those communities that are ignored or underserved by mainstream media, and whereas, koop is the nation's only cooperatively run radio station. It is owned and operated by its members and supported by 100 volunteers, and only a few staff, and whereas despite various challenges the station's listening audience is at an all-time high and membership donations are on the increase, and whereas birthday cake, live music with kelly willis, slated cleaves and sara hickman, a silent auctio and tone's are slated as a benefit. Therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim january 13, 2010, as koop radio's sweet 16 birthday benefit in austin, texas. So congratulations, all of you. Let's give a big hand. [Applause] I know with a bunch of radio announcers back here you-all want to talk, but does someone want to represent koop radio? Okay. [Applause]

>> well, thank you, mayor, and thank you, city council members for this wonderful honor, and thank you, the community of austin, all of our audience and supporters. We are very proud to have served austin for 16 years with independent, hand-crafted community radio, and we would like to invite everybody to come on out and join us in celebrating our sweet 16 birthday at antone's on january 13. Tickets are available at antones.net. Kelly willis will be performing. So thank you again. I hope to see all of you there. [Applause]

>> I'd like to introduce my colleague, council member randi shade, who you-all know, to do the last proclamation. the next-to-last proclamation, right? No? Okay. Is lisa here? There you are. I didn't see everybody. Welcome. Hi. I'm really pleased to be able to present this proclamation because I was there when this idea was first formulating in austin and they didn't have a space, they didn't really even have much of a plan other than they just had the will to make this happen. And what was that? Six months -- no, it wasn't three years ago.

>> Well [inaudible] --

>> wra yeah, you started talking, but it was like a year ago, you were still looking for space, year and a half ago. Time flies when you're at city hall. But I knew it was since I've been up here. I'm thrilled with what they've been able to accomplish, a lot of recent media attention since they opened their space. I'll tell you about it but I'll first present the proclamation to automatic clubhouse. Be it known that whereas austin clubhouse is a new entity on the austin scene whose goal is to restore hope to people with mental illness by providing employment, education, health, ties to their community and self-respect, and whereas according to the clubhouse model, members belong to the club but also have the opportunity to run it, thereby learn that they possess skills, that those skills are valuable and whereas seton had selected the austin clubhouse as one of its five 2010 nonprofits that seton employees can choose to support through their annual charity campaign, and whereas I urge austinites to learn about and support the austin clubhouse. Therefore, i, on behalf of lee leffingwell, mayor of the city of austin, texas, do hereby proclaim this week -- actually this half of the month, you got a whole half a month, I didn't realize that, december 14 through t 31 as austin clubhouse days. And again, we need every bit of help we can to help our fellow citizens that are struggling with mental illness. This is an incredibly good model and I'm so proud to have you all here and it's working. And I'll let you say a few words and thank you for what you're doing.

>> Thank you. [Applause]

>> thank you. First thing I want to thank councilwoman randi shade for inviting us here and mayor lee leffingwell for being such huge supporters of mental health, especially now with budget cuts looming next session, 134 million in texas looking to come out of the mental health budget. We need support now more than ever. So we are so excited to be in austin. We just opened our doors august 3 and we already have around 65 members. We've had over 200 people come by and check us out. Like randy had said, she -- we are geared towards helping people who have mental health diagnoses, adults, to get back into employment, education, socialization. We like to say -- we don't talk a lot about a specific diagnosis or what medications you're on. We -- instead we want to know your name and your passions and your talent, andouse we work around a work ordered day. We work t fulfill your goals andant to do in life. We are so excited because we already have about 10 or 12 members working with more starting in january. So we would love for you to come by and check us out. We're at 45th and red river, and we're renting space inside of red river chump. Church church, please come by or check us out on-line. Or our web sit. [Applause] thank you

>> with the holidays going on I think everybody recognizes that there's a heck of a lot of retail activity going on in austin, and one of the things that we need to keep in mind is that our local businesses, as we're going out doing holiday shopping, are such a critical part of our community. They help to define austin as the city that we love, and they're a critical part of our -- the economic health of our community. So we wanted to take a minute to remind people about that as they're going out and spreading their dollars around town, to keep in mind that shopping local is good for the economy, it's good for our city and it's a lot of fun too. So with that we wanted to bring a proclamation forward that says, be it known that whereas shopping at locally owned businesses puts three times the dollars into our local economy. Of \$100 spent at a local business, \$45 stays in our community compared to only \$13 when people shop at chain stores. Whereas locally owned businesses buy their goods and services from other locally owned businesses, linking our community in a web of economic growth. Members of the austin independent business apipelines represent more than 6,000 employees making member companies collectively one of the top five employers in austin. And whereas locally owned businesses from funky to satisfies fi kateed help austin retain its unique character and provide a more diverse range of products and service choices than available from national businesses. Now, therefore, lee leffingwell, mayor of the city of austin, texas, does hereby proclaim that 'tis the season to -- 'tis the season to buy local, from december 16 to december 31, 2010, in austin. So congratulations --

>> thank you so much.

>> -- And thank you so much for all your work, rebecca. [Applause]

>> thank you. I'd like to thank the council and mayor for this recognition and the recognition of importance of locally owned businesses and especially council member laura morrison. She's been a great friend and supporter of local businesses. So go out shop locally, your gifts will be more interesting and you'll keep austin austin. If you're wondering who's local, go to I buy com and you can see who's local. Thank you. [Applause] and that is the end of the proclamations, so we will be back in a minute. During the break the owner of allan house has agreed to purchase a shell, sort of the sound curtains that would be adapted to make a shell, put that around the area where the amplified sound would emanate from. or band, that that would be installed on the property. It would be reviewed by our music liaison staff. Where the city of austin to make sure that it's put in the right place and that it's constructed in a manner that would probably be the most effective. Second, if that does not work to its desired effectiveness, that they would have a discussion then about reducing just the bass. And -- end of the sound that would come from the property. Or come from the amplified sound and see if that would also work. This would then possibly come back on an appeal, at the end of the life of this permit, which is mid march. Disgruntle parties would then have the ability to appeal, have a hearing possible similar to this again. If -- if the owner goes forward and there's an appeal by the neighbors. But -- but what I want to do right now is just -- invite the parties to come up and just acknowledge what I'm speaking to. As an interim, the -- the music liaison has -- has -- office has agreed, dave murray has agreed to go out and assist with putting up -- the city of austin has some sound curtain material, mainly used for indoor, but it's going to be used as a test and I understand that the material is similar to what the applicant or the -- not the applicant the property owner would purchase. But these types of things when I say permanent, these things would actually be installed for the event around the sound amplification equipment and actually be taken down. You wouldn't see something there on a permanent basis, but -- permanent sense that you can use it outside, it can be used repeatedly, put up for each event, take it down. Our material that would go up under the test situation would be put up. We're going to try to get that up not this week for their event, that would occur this weekend but for next week. With that I will pause, if you have any questions for me, you can invite the property owner, his agent, the appellate up. He can -- they can acknowledge what I've just said.

>> Mayor Leffingwell: All right.

>> I would agree to either withdraw my -- appeal tonight based on the agreement that -- that mr. Ross is going to install the bench or the music shell, i don't know what the specific term is for it, but I'm willing to withdraw my appeal at this time based on the -- on his agreement to install that.

>> Thank you.

>> I agree to install it and for him withdrawing the appeal and still want to continue to work to make it -- so it doesn't bother my neighbors.

>> Mayor Leffingwell: You are willing to withdraw the appeal and I understand there was some comment by guernsey that there would be another opportunity for it to refile the appeal in mid march? Is that right? So explain to me how that works.

>> This permit expires in mid march.

>> Uh-huh.

>> Of next year. So if this -- if this agreement doesn't work out, the band shell fails or it's not operating properly, not put out, there's still an opportunity by the adjacent property owners to file another appeal upon the renewal that comes up on this outdoor music venue permit next march.

>> Mayor Leffingwell: So all parties are agreeable to that and we simply withdraw the case?

>> Withdraw with the understanding that counsel would add -- council would add an additional condition, additional sound curtain material would be added to the outdoor venue permit that they have,

that if that does not work, then --

>> Mayor Leffingwell: There guernsey, that sound like something a little bit different. That sounds like a modification of the appeal instead of a withdrawal. That's what I was trying to get at.

>> Right.

>> Mr. Lloyd?

>> Mayor, it's correct. If the terms of the agreement are to be a part and parcel of the permit and enforceable by the city as such, the proper course would be for the council to modify the decision that's before you to include the terms.

>> That I spoke to earlier.

>> Mayor Leffingwell: So the promotion would be to grant the appeal with modified conditions?

>> I think the code gives you the authority to uphold, reverse or modify. So I think you don't need to say grant but just to modify the permit.

>> Mayor Leffingwell: Okay. That's fine. Councilmember morrison?

>> One point of clarification. In terms of timing, will this shell be able to be up for the next event? Or is it something that takes some construction time?

>> If I understand, it's going to take several days to construct. The next event is this saturday. And we don't think we can get it done by this saturday. But the next event after THAT IS THE 23rd, OUR Commitment is to have it done by then. I believe the answer -- to answer the mayor's question, it would essentially be a modification of the permit, not the appeal. I guess the appeal will -- legal counsel will tell you how to deal with that. But council would be modification the terms of the permit to require this additional sound curtain.

>> Mayor Leffingwell: I think it's a modification of the appeal. But we'll hear from --

>> you would be modifying the decision or the permit that's before you and that would be your action on the appeal. I think nothing more need be said than the council moving and voting on a motion to modify the decision. The permit that's before you consistent with the terms that have been described.

>> Mayor?

>> Mayor Leffingwell: Councilmember morrison.

>> I did want to comment. I really appreciate your work on this. As I was listening to the testimony to hear the neighbors say they just want no permit, no outdoor music there. I'm fully committed, compatibility is a huge issue. But we have to be supporting and doing everything we can to be able to find that mitigation, hopefully to be able to achieve the compatibility and I think that it's happened on every single appeal except for one. That got -- that was actually accepted and the permit terminated. So I appreciate your work. It's very important and i think that the shell is going to probably provide a significant improvement as mr. murray mentioned. We've got this topography and I know that it's very possible in many parts of downtown to be standing on the property line and not hear any music, but if the music -- when the music is like on the second level and you can hear it four blocks away. So he certainly understand and appreciate the difficulty you all have been through. I very much appreciate the allan house folks working on it. It's a great place. I've been to wonderful, wonderful events there, thank you for your work. I would like to move that the council modify the guernsey described.

>> Motion by councilmember morrison to close the public hearing and to modify the permit with the conditions agreed to by the -- by the appellate and the respondent. So seconded by councilmember spelman. Further discussion? All in favor say aye.

>> Aye.

>> Opposed say no. Carries on a vote of 7-0. Councilmember shade go ahead, really the item is off the table now. Without objection we will allow councilmember shade to speak as a point of privilege.

>> It was a question of greg that I didn't get to ask before. I appreciate that you all reached an agreement, i really hope this all works out. On this reapplication that you were explaining that happens in march. Can we make sure if this isn't worked out we are not going to have months of appeals and postponements. How do we make sure that we hear it timely and not wait until it becomes a difficult problem --

>> if we have an appeal, staff will commitment that we will bring that back much quicker. There's a lot of discussion that went on with this particular item where there was a lot of negotiation that was going on. And as even you heard tonight, there was a lot of things that led up to this evening about trying to find ways to mitigate the issues. One thing that we have done that has helped tremendously is that in the -- this time last year we didn't have a music liaison. And it was only a couple of months ago that david murray was hired to have a sound engineer. So that's been a tremendous help to my office because we're the ones that issue the permit, take care of the notice, but I really didn't have the professional, technical resources to have someone assist us to deal with these sound issues. We now have that in place. So things are -- happening much quicker and much easier working through these particular permit applications.

>> Mayor Leffingwell: Let's go to item 95.

>> Mayor and council, item 95 is to conduct a public hearing and consider an around amending chapter 25-2 of the austin city code to designate the board of adjustment as the body to review variances and site development regulation appeals in neighborhood conservation combining districts. This was an item that actually council directed staff to initiate. It has been recommended to you. It went by consent at the planning commission. I believe you have two people that have signed up in favor of this request. And if you have any questions I'll be more than happy to answer them at this time. Otherwise I'll just be quiet.

>> Mayor Leffingwell: Okay. We do have two people signed up for, but only wishing to speak if there are any questions and that would be mary ingle and karen McGRAW. With that, council, I'll entertain a motion on item 95.

>> Mayor, move to close the hearing and adopt the ordinance on all three readings.

>> Mayor Leffingwell: Motion by councilmember spelman to close the public hearing and adopt the ordinance on all three readings. Seconded by councilmember morrison. Discussion? All in favor say aye.

>> Aye.

>> Opposed say no? Passes on a vote of 7-0. Brings us to item 96.

>> Thank you, mayor and council. 96 is to conduct a public hearing to consider an appeal by carol torgrimson regarding the zoning and platting commission decision to approve a hill country roadway site plan.

>> Mayor Leffingwell: Mr. Guernsey, before you get started I have to ask a question. Before we begin discussion of this item, are there any requests for postponement or issues of standing that anyone

would like to raise? Hearing and seeing none, go ahead, mr. guernsey. For the trails at 620, located at 8300 rhythm 620 spc 20090349 c and its associated variance for a driveway cut. At this time I will introduce george zapalac that will present the case on my department's behalf.

>> This is an appeal by the 2222 neighborhood coalition ... approved by the zoning and platting commission on NOVEMBER THE 2nd. The project is located on a 170 tract at the northwest .. Signalized intersection. It's approximately one mile north of the intersection of 2222 and 620 and is directly opposite the entrance to concordia university, which is also a signalized intersection. [Multiple voices] that proposed development consists of 26,000 square foot center, movie theater, general facility, retail, medical offices. The proposed access to the property is by means of two driveways to wilson park avenue and three driveways to ranch road 620. The project did receive an environmental variance for cut and fill from the zoning and platting commission and this is not being contested. The issue before you this evening is primarily the approval by the zoning and platting commission of three driveways to rm 620. The code allows only two driveways to the hill country roadway from a single site. The projected traffic is approximately 20,000 vehicles per day, of which about 1400 would occur in the evening peak hour. Although staff feels that the site could function with only two driveways, we do support the driveway variance for a number of reasons. First of all the project has about a half mile frontage on -- on 620. The minimum spacing between the proposed northernmost driveway, which is the main point of contention, from that driveway to the next closest driveway on both the north and the south end is 450 feet. The standard for spacing is 300 feet. It exceeds the minimum significantly. The other two driveways are spaced 850 feet and 1100 feet apart. So overall the -- the spacing of -- greatly exceeds the minimum 300 feet standard. Staff feels that the addition of this driveway would remove some of the traffic from the signalized intersection opposite concordia university and reduce the delay at that location. It would provide for a better dispersal of traffic, particularly because the driveway would serve the proposed movie theater on the site and the movie theaters tend to have high peaking characteristics that has the features -- as the features change and tend to have traffic concentrated in short time periods. In addition the proposed driveway has [indiscernible] on the other side which is awn divided roadway at this point. The commission agreed with the staff recommendation and did approve the variance and site plan with some conditions, first the driveway would be right in, right out only, so no left turns permitted into the driveway from 620. They would -- they required the applicant to construct a deceleration lane turning into the driveway off of 620 and they required striping along 620 for a bicycle lane along the entire lent of the project. Length. The council's options are as in your last case to uphold the commission's action and deny the appeal, overturn the commission's actions and approve the appeal or to modify the economics's actions. I'll be glad to answer any questions at this time.

>> Questions for staff? We have a lot of folks signed up to speak on this item. And before we get into this, I would just say from time to time councilmembers will be leaving the dais. We will maintain a quorum. And when we do leave the dais, there are opportunities to watch the proceedings on closed television in the back. So first speaker is peter torgrimson. Peter torgrimson. Several people donat time, margo [indiscernible],. mayor, I was under the impression that -- that carol torgrimson is the applicant and would speak first on this issue.

>> She's not first, but if you want her to speak first, we can.

>> I think that would be best.

>> Mayor Leffingwell: Carol torgrimson. So, carol, you have a lot of folks donating time to you. But as the representative of the appealing party, you have 10 minutes.

>> All right. As the appellate, thank you, sir. Well, does that mean I also get a three minute rebuttal at the end, sir?

>> Mayor Leffingwell: Yes, you do.

>> Thank you, good evening, mayor and councilmembers, my name is carol torgrimson, I'm a resident

of long canyon, I am the transportation officer for 2222 cona. I filed this appeal on behalf of 2222 cona and with the unanimous vote of our direction. While we are supporting of the project and not opposed to the requested environmental variance for cut and fill, we feel that the requested driveway variance is not warranted. That the third driveway presents traffic safety issues which outweigh the benefits which might be derived from it and that the approval of this variance will set a precedent which will be detrimental to all hill country roadways. In our initial meeting with the trails project team on september 25th of I year before I site plan was filed, we discussed the issues that we had with the proposed additional driveways on 620 discussed -- which would be required for the development to have more than two driveways in the nearly. During the ensuing 15 months the case for additional driveways has become less compelling as the proposed uses for the development have resulted in significantly fewer vehicle trips per day. When the site plan implication was filed in december of last year, the traffic exact analysis, the tia waiver indicated that the trips were 39,297. In the backup the city of austin traffic reviewer's show the proposed 20,140. A reduction of 49%. If the number of proposed driveways for this site has only been reduced from six to five, a reduction of 17%. On october 8th of this year, we were informed by a armbrists staff that the owners agreed to go forward with the two driveways on 620 allowed under code for a total of four driveways which would result in the case being presented on consent at the zoning and platting. Upon attempting to modify the site plan application to show that reduction in driveways driveways on 620 to two. They encountered an administrative snag with the city which they said might have delayed the case between the expire rehabilitation and jeopardized leasing agreements. Consequently they chose to continue with the three driveways and the variance request. Shortly thereafter when the administrative hurdle was removed and the site plan application could have gone forward with the driveways allowed under code the applicants were unwilling to do so. With that time they reached an agreement with the park hoa and they were contractually bound to support the variance. We support the park hos a's decision to enter into that agreement as we are well aware there are many issues other than traffic safety which must be addressed by neighborhoods which are in close proximity to such a development. While there is no doubt that the applicants would prefer three driveways on rm 620 as well as on wilson park avenue, it is clear they do not need more than rm 620 to be viable. If it had they never would having willing to go forward with the two driveway scenario using the [indiscernible] concordia and the driveway between concordia and wilson park avenue. We were told by city staff that they were satisfied they had been given sufficient information to support the site plan with either two or three driveways on 620, as you heard, mr. zapalac explain. They have a preference for the three driveways but they believed they could support two had the applicant been to go do that. Our numerous conversations with txdot have reinforced our conviction that the additional driveway is not only unnecessary but detrimental to traffic on 620. Txdot has expressed concerns about this additional driveway and contrary to what you have heard or about to be told they have never expressed support to this project having three driveways. The formal agreement gives the city the authority to determine the number of driveways on this project as long as the driveways meet txdot's technical requirements from their access management manual. Txdot has no altertive but to issue permits for those driveways and txdot is awaiting the results of today's hearing to determine which driveway permits they will issue. One of the concerns that txdot has mentioned to the applicants and to us is the concept of weaving, which is something that is not required to be addressed by austin. That is when you have drivers entering on to a road from the -- from say like from the north earn most while others are trying to exit from the next driveway down. If you have ever driveway convenient on a highway you've had the experience of trying to driveway on to the highway, get into the right lane as people are trying to exit and get over. Acceleration and desell race rehabilitation crossing. People operating in conflicting ways in the same lane at the same time. The longer the space, less weaving is a factor. And while there are 450 feet between these driveways, this will still have an effect. The minimum for txdot is 425 feet. A physical minimum that they allow between these driveways. The city of austin code is only 300 but txdot is 425. We aren't arguing that the driveway will not fit into the spatial requirements that txdot has. They have moved the driveway further north to accommodate the spacing requirement. It didn't always fit. But it does now. And the apartment complex to the north has agreed to allow the deceleration lane to be partially on their property so that there's enough space with the deceleration lane. We're not arguing that they won't meet txdot's technical requirement because they will [indiscernible] complex to the north. But we still believe there is more to be lost from that driveway being than there is to be gained. The driveway at -- at concordia drive, which is a signalized driveway,

will have a free right turn into the development from 620. Someone coming down 620 can go to the signal and still turn right into the complex whether the light is red or not. People coming out of their apartment complex will not -- would not be crossing traffic with people trying to exit into the complex which might be the case now. We understand that there are -- there are economic issues for the developer. They have business reasons for wanting that driveway there. We don't believe that business reasons should be the driving factor in this determining the advisability of a driveway on a road like 620. Which is a major, important artery on the -- north and south on the west side of town. I cannot stress enough the importance of the precedent that you will be setting today if you approve this driveway -- this variance for an additional driveway. We requested that George Zapalac make us aware of any such variances that have been granted for hill country roadways, he and other staff members are not aware of any variances ever having been granted for an additional driveway on to a hill country roadway in conjunction with a site plan approval. George has told me that there are a couple of very es that were approved quite some time ago, including like Davenport Ranch, a huge 's there may have been allowance for additional access. So I'm not going to tell you there's never been an exception in any case. I will tell you there's never been a site plan taken forward for which a variance has been approved for additional driveways on any hill country roadway. Granting this variance will set a precedent for other developers to request and expect to be granted variances for additional driveways. We are especially concerned that such a precedent would be set for this very important issue on such minor grounds as we believe the current variance request is before you today. Such a precedent would be very negative for all hill country roadways. Again, we support the site plan. We supported the cut and fill variance. We ask you to approve the site plan with that variance. We ask you to seriously consider whether or not approving that variance is more of an accommodation to the -- to the -- to a development or whether or not an accommodation to the overall safety and traffic flow on 620 is the greater good that needs to be served here. And if you have any questions, I'll be glad to answer them. Now Peter Torggrimson. Margo [indiscernible] not here. Joey? Not here. Roy Whaley. He is here. Lizette Smith is here. Peter you have up to nine minutes.

>> Mayor, Mayor Pro Tem, Councilmembers, I'm Peter Torggrimson, representing the 2222 Coalition Neighborhood Associations, representing seven neighborhood associations in our area of town, the area of this development. Our board of directors is composed of representatives from member associations and traffic safety is one of our primary concerns and it's a major issue for us. Our board voted unanimously to oppose this variance for an additional driveway. We believe it has implications that goes far beyond this particular development. As Carol mentioned RM 620 is a major artery in this part of town. It is the only north-south artery in this part of town. To go anywhere else you have to go over to 360 somehow and get back out to the area maybe on Bee Cave Road or some other road, but for all practical purposes, 620 is the only road to get to one place that's more than a few miles away to another place in that area. So the importance of this road is hard to exaggerate. Unfortunately, the topography and the layout in that part of town is such that this is for the foreseeable future going to nor plans by TxDOT for any other road in the area. This is literally the only road to get anywhere from anywhere else out there. Fox News first we are very concerned about anything that might impede the traffic on that road. TxDOT says a -- when the plaque starts piling up, eventually the system is not going to function. It's -- I liken has to be compared to a death by a thousand cuts. In this case it's the driveway cuts. That's why we're opposing this particular variance. One might have had to control the number of -- method to control the number of driveways is the land use, specifically -- land development code, specifically the hill country land provisions. That is to limit the number of driveways to any development to two driveways. Believe it or not, this has happened in this territory. One of the provisions in -- in -- excuse me, in paragraph 25-6-415 of the land development code specifies the kind of driveways that you can have, a maximum of two driveways, also some conditions that encourage those driveways to be less than two, two is the maximum number of driveways which could be permitted in the particular case where there is a road intersecting a hill country roadway adjacent to the property, such as in this case Wilson Park Avenue, the city has the rights to limit on 620 to be one and not two. They have not chosen to do that at this time. But it's fully within the city's right to limit the driveways to be one on 620 and another access comes from that intersecting road. In fact the Wal-Mart store across 620 from this development has that configuration, the main access to Wal-Mart is the fourth leg of the Wilson Park intersection which goes beside the Wal-Mart property. They have multiple actions on that road and have single access on to 620

from that site. There's other sites in the area where there are one or maybe no accesses directly to hill country roadway from the property. The city has the right to force property owners to have shared access between those properties to improve traffic safety on the hill country roadway. The developers have chosen a particular path to use for this development, which is the unified development. Certain advantages to doing that as opposed to using separate lots. There's an argument if they had done separate lots like two lots they would be guaranteed two driveways for every lot and they would get four driveways on the 620. As I just stated, the maximum number of driveways that you can get on a lot is two driveways. But you are not guaranteed to get those two driveways. If it had been developed as two lots, there are certain advantages that would accrue to that, but the developer chose not to do that. Obviously the advantages of a unified development were more important than possibly the limited number of the restrictions on the driveway ... we have a site plan in front of us that is allowed to have two driveways on to 620 and we are asking you to preserve that. Hill country roadway provisions and the commercial design standards are in complete agreement about this type of thing. One of the goals of the commercial design standards is to move traffic from the main roads, the highways, to a limited number of access points on to internal circulation routes and there by get the traffic off the main road. This development has a complete internal circulation loop as required by the land development code, one of the purposes is to allow people to go into the development to the different access points easily and not have to go right on to the highway for everything they want to do. Again, this is supportive of having only two access points on 620. No other development on hill country roadway whether big or smaller than this, some of them are very big like [indiscernible] ranch, which is a much bigger project than this, only has two access points on to a hill country roadway. Other developments have zero access points. Nobody has been granted a variance for a third driveway in their site plan, we are asking you to not grant that today. Doing that would set a very bad precedent, granting this variance sets a precedence that other developers are going to ask and expect to be granted similar variances for relatively minor driveways, but again every one of those is another one of those thousand cuts of death. This road, as I mentioned before, is extremely important for this area. And -- and as I said, we don't have any other roads that have ever had this variance granted and we would like for this not to be the case today. Please do not take away any of the traffic safety on rm 620 in favor of preferential treatment of a single developer. This is something that a developer would like and makes his property maybe more attractive, but it does not make it very attractive in terms of traffic flow on 620. Thank you.

>> Mayor Leffingwell: Thank you. Bill bunch. Donating time phillip kay, is phillip here? Not here? Helen? You are going to pass, okay. Those ever all of the speakers that we have signed up for the appeal. We w go to the spokesman against the appeal. David armbrist, you have 10 minutes.

>> Thank you, mayor, I'm david armbrist representing the president clinton. Representing the applicant. I wish that I could be talking about the good things, the landscaping, open space, this is all about a driveway. I think about one driveway. This property consists of two lots. And under the normal -- the normal procedure of the city, two lots running the hill country roadway ordinance you would end up with four driveways typically. The developer in this case decided to do a consolidated site plan for reasons to spread some impervious cover. Across the project. Which at the end of the day turned out not to be the case anyway and so they got into the process as one consolidated site. And originally the staff supported four driveways on the property. This property has a half a mile of frontage on 620, by our research it has twice as much frontage as any other site plan that's ever been submitted on 620. Just down the road apiece, there is a half a mile stretch of property that has seven driveways. So we didn't think four was unreasonable. But when -- again we had staff support for four in the beginning, but when we got wind that the torgrimsons had concerns about this, we started meeting with them. We met with them on several occasions. And looked at the property very closely. And the developer decided to drop one of the driveways in anticipation of hopefully reaching a compromise and not being here. In fact, if we could rewind the tape, we would go back to the two lots and we wouldn't be here tonight. But we are where we are. The accordings raised their -- torgrimsons raised their points, they believe very strongly this would i would submit the reason that if in fact it's true that there haven't been variances for additional driveways on the hill country roadway ordinances it's because developers typically have multiple lots. They don't have a half a mile frontage. They have lots that might be 100 feet wide or 300 feet wide and so they can handle multiple driveways in that manner. But this driveway in question, it's

an unusual situation. Again it's on the northern end of the property. But the driveway primarily almost exclusively is going to serve a movie theater. And the theory is the traffic experts, the city staff, our traffic consultant, they say that the traffic coming from the north, going to the movie, it would be best if they had the ability to turn right into the movie theater, and then when the movie is over, that the patrons have the ability to come out that driveway, turn right and -- or go on their way. Without the driveway, the end result is that, as you know, people tend to go to the movie all at the same time, they tend to leave at the same time. So without the driveway, you have a situation where all of those people movie goers have to go to the -- they would probably go to the light at the concordia intersection, which our traffic consultants say would put undue pressure on that light. There are other ways out and traffic could meander its way out to Wilson Park Boulevard. But we've had -- we've had concerns from the neighborhood group that sits behind this property, they don't want additional traffic on their only entry into the subdivision. So all of that being said we come to the conclusion that this driveway is best for the traffic on 620. There's no economic benefit to the owner of the shopping center. None whatsoever. It's purely a matter of convenience and really the beneficiaries are going to be the traveling public on 620. So we respectfully ask the council to deny this appeal and let us go on our way. We would be glad to answer any questions. Thank you.

>> Mayor Leffingwell: I have one quick question. In the approval that you got from the zoning and platting commission on the driveway in front of the movie theater, that is officially restricted to right in right out?

>> Yes.

>> Thank you.

>> One last point that I forgot, we've had no concerns from TxDOT. We have met with them on a number of occasions. As Carol said, the -- the number of driveways is really up to the city as long as it meets the spacing requirements and TxDOT will approve whatever the city approves. Thank you.

>> Mayor Leffingwell: Thank you.

>> Mayor Leffingwell: So the next speaker against the appeal is Jim Smitherman. Donating time to Jim is Rodney Speaks, Rodney, are you here? Okay. Eric DeYoung. So you have up to nine minutes.

>> Good evening. My name is Jim Smitherman, I am president of the Park Homeowners Association. I'm here tonight to support the request for a third driveway at the northernmost entrance to this project. The developer has worked with us to address our safety concerns. They have reduced the number of driveways on 620 from four to three, and have moved one of the driveways to avoid a conflict with a drive across the street. We do not believe a third driveway at the northernmost ends of this project will adversely affect our neighborhood. I would be happy to answer any questions.

>> Mayor Leffingwell: Thank you. Next speaker is Brandt Dickerson. Brandt Dickerson. Several people donating time, Roger Nooner. Roger Nooner. Not here. Kathleen Hornaday. So you have up to six minutes.

>> Mayor and Council, thank you for listening to myself speak. I represent the [indiscernible] at Grandview Hills, the multi-family community directly north. We actually will share property with the trails of 620. I granted the extra feet that TxDOT wanted for the end on the third drive. Myself, I'm actually excited about the drive because I was concerned about the only entrance being at Concordia, that traffic backing up into any apartment community. We are 450 feet away from the right in. With that right in traffic, theoretically will not stop. When you go into all of these developments that we have that have these right ins, traffic just comes in smooth. When you have that light at Concordia you are going to have somebody obviously going straight, not turning right, you're going to have 30 movie with a bunch of people coming to it, they are going to back up and continue to back up, my residents will have a very hard time turning into the apartment community. Same with when they are exiting it's going to back up

my drive as well. This right-in will actually work in our favor. We definitely support that. Obviously against the appeal. The right out, I support because it will again send everybody right. Like most of the entrances at home depot. They are right out. There's one that's -- that's an option. But it's -- it seems to work really well. I've been over that property for five years. So I have seen a lot of what's going on off of 620, I think this will definitely work out. If you all have any questions, that's all that i have.

>> Mayor Leffingwell: Thank you. The only other person signed up is jane moreman, signed up for but not wishing to speak. So with that we will hear rebuttal. From carol torgrimson. Carol, you have three minutes.

>> Thank you, mayor. I would like to point out that the argument that's been made in favor of the driveways to the theater is that all of the folks going south on 620 will be able to turn right into the driveway and that will take a tremendous load off the intersection at concordia. armbrist said, when they leave they will come out and they'll turn right. Well, they're all going left. So all of the people who came down 620 and found that right turn so convenient, now have to get out and turn left. Which means that they are going to end up at the light at concordia anyway in order to retrace their steps because the driveway is supposed to be right in right out. Unfortunately we see a lot of instances on 620 and other hill country roadways where it's a five lane configuration, where people do not honor the no left turns in and out of those driveways, we expect to see a goodly number of folks attempt to turn left out of that right out driveway to get on to northbound 620, which is another reason why that driveway presents as many problems as it might possibly solve. The concerns about stacking up at the intersection, we can't be too concerned about that because it's a free right turn. You can pull over to the right and turn, so there may be some backed up, but we don't believe that's as significant as the interaction issues that the driveway will create. armbrist has said that there's no economic advantage to the applicant for having that driveway or not having that driveway. We find that kind of hard to believe. We were told on november 2nd, OUTSIDE OF THE -- Outside this room awaiting hearing that they had a client who wanted a corner position at that driveway. A restaurant, I believe. And they would only sign up if they had their own driveway. And our understanding is that was the reason that they would not agree to the two driveway configuration, which they had been pushing two weeks earlier. So again we understand that this is kind of a narrow judgment call on your part. We don't believe that there's a compelling case for that third driveway. We understand that it's -- this is sorts of on the line here. We believe that the precedent that it would set is the greater concern. We don't believe that 620 will be negatively affected by the absence of that driveway as much as it will be by the presence of it. And we are concerned for future site plans along all hill country roadways, not just 620 if this precedent is set. We appreciate your time and for listening to us and the opportunity to speak before you tonight and we wish you happy holidays, thank you.

>> Thank you, happy holidays to you. Those are all of the speakers that we have. I will entertain a -- a motion on this item or a discussion.

>>

>> Spelman: I have a question. Going to go on my tomb stone. Mayor, I have a question. armbrist, you are out there somewhere. You were telling me that you were going to bring your traffic engineer. Is she here? Ms. hornaday?

>> It seems to me the strongest argument that the -- that the appellate is the safety argument. If you have two driveways close to one another, somebody is coming into one, somebody trying to get in downstream, 450, is that the distance between d and e.

>>> That's correct.

>> You have somebody coming out, you have a natural conflict there, sooner or later you are going to have a collision, is this the sort of thing which traffic engineers do consider.

>> We do consider those. Actually studies have been done to provide design criteria to eliminate that issue. And those are all set in both txdot standards and city of austin standards and this driveway will be designed according to design criteria to help eliminate that issue.

>> Spelman: Give me a sense for what kind of criteria are involved to try to prevent those collisions?

>> Actually the speed of the roadway is taken into account, the volumes entering and exiting both of the driveways are taken into account, so those are all looked at, really case by case.

>> Spelman: If it's case by case, is there a formula someplace.

>> [Indiscernible] volumes change. So entering and exiting volumes are different depending on the land use type and time of day and so all of that is taken into consideration.

>> Spelman: Okay. Sounds to me like my best guess is the worst time of day would be movies letting out, it's dark, people -- you can't see the cars in front of you particularly well. You have a lot of people trying to get into the development. Go to the movie. Time when some things are coming out, coming in. Everybody is going 60 miles an hour on 620. Speed limit is about 60, isn't it?

>> I believe that's correct.

>> Spelman: At the worst time period the design protocol is going to dictate a certain distance between driveways. Is that the primary fact for that you can -- factor that you can maneuver in order to keep this thing safe.

>> Yes, distance.

>> Spelman: Okay. So at the worst possible time, what's the required distance between driveways?

>> The minimum is 425 feet.

>> Spelman: That's just a global minimum on a texas exes dot -- on hill country roadways.

>> It's already taken into consideration the speed on the roadway. [One moment please for change in captioners]

>> councilmember, our standard is minimum 300 feet was developed a number of years ago when it exceeded the txdot standard. In the meantime, txdot has upgraded their standards and they now exceed ours. Basically ours have not been updated to match theirs. But we do have a dual permitting authority on state highways so we do work with the state. They have not expressed to us that they have a major concern about this location. They may have had other conversations but they have not expressed that concern to us.

>> Spelman: Txdot's requirement is 450 feet from center line to adjacent driveways on any hill country roadway or only those --

>> on not just hill country roadways but state highways in general I think that have -- i believe the 60-mile-an-hour speed limit.

>> Spelman: So it is predicated on the speed limit.

>> Or the design speed of the road, yes.

>> Spelman: Okay. Is there anything we need to do in order to increase our requirements?

>> We are certainly looking at that as a way to bring the requirements into correspond with txdot's to match them more closely so we don't have a different standard, and yes, we will look into that and see what kind of changes we can make to make it more consistent with txdot's standards.

>> Spelman: If somebody came up with a proposal to have a 300-foot distance between driveways to road, it wouldn't get through city staff because we're inconsistent with txdot?

>> Right, and there are other factors. That's a minimum standard but there are other requirements such as you can only have two driveways per site plan. So that further restricts the number. Even though you may need the minimum 300, you have other standards to meet as well.

>> Spelman: Let me ask you, why do we have that minimum requirement or maximum requirement of two driveways [inaudible].

>> Well, that was also established a number of years ago when the hill country roadway ordinance was first approved and it was intended to reduce the number of conflict points along the highways to allow traffic to continue with moving and understanding that the roads were intended to move heavy volumes of traffic and we didn't want to interrupt the flow every -- you know, every couple hundred feet with driveways. So the intent was to try to reduce the number of driveways and, you know, consolidate the access points. There are also incentives in the ordinance to provide shared driveways, shared between two or more developments. So it -- you know, there are various factors that work together, but 300-foot is the bare minimum, but it does have to meet other standards as well.

>> Spelman: I only had 150 frontage on 620, I'd have to share a driveway.

>> Yes, we would certainly do whatever we could to -- to provide shared driveways in that situation. Of course, there may be some properties that have been out there a number of years and had less frontage than we currently allow. So we have to allow everyone some type of access, but we would certainly -- if you had less than 150 feet of frontage, we would certainly try to provide joint access through adjoining properties.

>> Spelman: Is there anything other than [inaudible] in a situation like this?

>> In this particular situation? Well, the issue of conflicting turn movements is important too and that's why in this case the channel right turn in right turn out driveways part of the recommendation. It can't eliminate all conflicts, but it can certainly reduce the right angle conflicts which are usually the most severe.

>> Spelman: What are we going to do for somebody who takes a right in going southbound on 620, another turn [inaudible] on 620? How are we going to handle that?

>> They are going to have to go down to the next intersection and make a u-turn at that location. In this case there are several hundred feet between -- of separation between the driveway and that intersection at concordia university. So in -- at peak times, you know, when the road is heavily traveled, it may be somewhat difficult to make that weave maneuver and you may have to go down further before you can make a u-turn. harn day was explaining, when -- hornaday was explaining, when the movie theater let's out the traffic volumes are normally lighter and it should not be as difficult to make that maneuver.

>> Spelman: Last question for you, george. Have you seen a site plan on 620 that has this much frontage on it [inaudible]?

>> Not a single site plan, no. There have been other large developments such as the four points development which is across the street from this one. It came in and it -- it has about -- well, it did not bring in -- it did not request a waiver on the site plan, but it was planned unit development and at the

time at zoning they requested more than two driveways and they did receive that permission. They do have over there three driveways within 1100 feet. So we feel like there is a precedent for this. There were also additional driveways granted for the on loop 360 at west lake boulevard. So there are -- there have been other precedents to -- to increase the amount of access allowed to hill country roadways before.

>> Spelman: What was the justification that you had for -- were okay with having [inaudible]? Does that support that?

>> Yes, we did. Because we were looking at the entire project, it was a very large project. It covered basically that whole quadrant at 620 and 2222. There were just -- in order to accommodate the level of traffic that was going to be generated, you know, we felt that more access was needed at that point.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: Thanks. George, I wonder if you could in a nutshell tell me the ben and the negatives. Because I think I'm hearing both. I guess the togrimson's have mentioned the weaving issue. That's the main concern there. What benefit does it bring news.

>> The benefit -- major benefit that we see is that it takes some of the traffic out of the concordia university intersection. The southbound traffic that wants to turn into the site can turn in directly without having to go through that intersection, which would reduce delays. Traffic exiting that wants to go south also can go directly out to 620 and then they can proceed straight through the concordia intersection without having to make any turn maneuvers. That's a plus as well. It -- it -- in addition, it -- we just think it would better disperse the traffic. It -- it -- the -- being a right turn in, right turn out channelized, it does not have the same -- raise the same amount of concern as if it were an unrestricted driveway where traffic could be turning left into the driveway. That would be a much more potentially hazardous situation.

>> Morrison: So by channelizing, you mean there will be physical barriers so there's no way unless you are going to go over the --

>> there will be an island. An island that will direct the traffic to the south. You can't exactly necessarily prohibit it entirely. People will try to make the maneuvers there. It will be posted with signs, they can be picketed if they attempt to do that. But they will strongly encourage people to make the right turn.

>> Morrison: You didn't mention this in answering councilmember spelman's questions, but I would think people coming from the north that take the right in there to go to the movies, when they want to get out, if I were them, I would go down to the concordia light and just take a left as opposed to trying to work -- do you generally expect people in that internal circular configuration to do some of that?

>> I would think that would be easier too, but if the traffic backs up at that intersection, some people would probably try to make the u-turn maneuver. You know, we think that the spacing of the driveways could accommodate both. And, you know, would function better than just the two driveways.

>> Morrison: And then i don't know if you have a comment on this, but when you were talking about asking why the limit was two in the code for two driveways per site, the answer you gave was that the idea was to keep the cut-ins to 620 from getting too close. To me that's fundamentally a density of driveways. Do you have any explanation about why it got into the ordinance just a flat number as opposed to a number per linear feet of frontage?

>> I'm -- no, I don't have a good explanation for that. I think the -- the experience at the time this ordinance was drafted, you know, the experience was that we were getting sites of a particular size and the feeling was that two driveways should be enough. You know, I think this one is exceptional in that it does have a half mile frontage that's not typical of what we see out there, but you know, i agree, it would

make more sense to base the number of driveways on the size of the project or the -- it does have some factors in there also about the amount of traffic in order to get additional driveways. I think it could be better drafted to base it upon the size.

>> Morrison: Okay. Thank you.

>> Mayor Leffingwell: Councilmember riley.

>> Riley: George, that triangular island that you mention, is that similar to the island that appears across the street to the entrance to the wal-mart?

>> Yes, it is.

>> Riley: So it is slightly raised.

>> Yes, it would be raised.

>> Riley: Have we monitored that intersection, have we monitored that driveway to see how it's performs and how often people did make illegal turns there?

>> I'm not aware that we have monitored regularly. I understand people have been ticketed for attempting to make a wrong maneuver. The police department has been out there on occasion, but i don't have any records of, you know, how much -- how many illegal turns have occurred there.

>> Riley: Are improvements like that within the city's control or is that roadway subject to control by txdot or some other --

>> it is controlled by txdot. They do have to approve the design. But they have agreed with it in this case.

>> Riley: Okay. So we're proposing something similar. Could we expect the staff will be continuing to examine it and then consider additional improvements in the event that these -- that these islands prove to be ineffective?

>> If you direct us to do that, certainly we could follow up and do some monitoring.

>> Mayor Leffingwell: Motion, council? Councilmember spelman.

>> Spelman: Mayor, I'm always concerned about getting a variance especially on the hill country roadways, but seems we're giving a variance on one thing and not on another. We're not giving a variance on the distance between driveways, which I think is the critical issue in this case. Given that this particular site plan is of unprecedented size, the biggest one as george said that we have ever seen before. [Inaudible] I understood it. And that we are still mandating a sufficient distance between driveways to allow people to come in and out without running into each other. I did the math and the distance is 450 feet traveling at 60 miles an hour is a little over five seconds. Five seconds at 60 miles an hour, you are not starting at 60 miles an hour, you are starting at zero, trying to blend into traffic, seems like would seem to make sense to be an adequate distance to do that kind of thing. It also -- I'm a little concerned -- well, I'm a little concerned that our own requirements are different from the state's requirement, particularly since the state requirements seem to be more safety conscious than our own are, and I would encourage george to take a look at those [inaudible]. If that's something we can do, I'll happily send out a resolution asking you to do that if you need any provocation. The biggest argument in favor of doing this is not the developer is asking for it but because it's going to reduce congestion on concordia by 40% I think was the delay reduction, and more important for my purposes, if people decide not to -- well, the alternative means of avoiding this is go to wilson park, get on a neighborhood street and come out that way. And this would reduce the amount of traffic on wilson park by 20%. As it seems

to be the combination of reducing traffic on otherwise neighborhood street and reducing congestion at a busy [inaudible] so long as we can be fairly sure [inaudible]. Mayor, I move to close the public hearing and move approval on all three readings.

>> Mayor Leffingwell: Move approval. Does that mean you are moving to deny the appeal? Motion by councilmember spelman.

>> Mayor, could I have a clarification? Does that include all the zap recommendations and outstanding staff comments?

>> Spelman: Help me to understand.

>> The zoning commission recommendation was it be a channelized right in right out driveway.

>> Spelman: I'm in support of the staff recommendation, yes.

>> Mayor Leffingwell: What we're doing is the zap recommendation stands if we deny the appeal. So I don't think it's necessary to say that, but if you want to, that's fine.

>> Thank you.

>> Mayor Leffingwell: Motion and second on the table. Further discussion? Councilmember morrison.

>> Morrison: I am going to support this. You know, I think that the safety issues that were brought up are certainly very valid that it's a two-way -- there's two ways to look at that, pluses and minuses. And in terms of the -- of the precedent, I think for me it's about the density of the roadways and this being an extraordinarily long frontage is really important. One of the things I did want to keep an eye on was the fact this was a unified development that could bring certain benefits and then sort of doing an end run trying to come back and get the benefits of not being a unified development, but in fact I think that's not the case here. That if it were the case, it would make me very uncomfortable because I think that would be a very negative precedent to set. But as it is I'm going to support this.

>> Mayor Leffingwell: Yeah, and I seconded because I'm not going to try to play traffic engineer because I'm not, but it seems intuitive to me just looking at the site plan that the traffic flow is going to be better, traffic flow on 620 and internally in the development is going to be better with that third entrance. So that's the reason. It also has beneficial impact as the neighborhood group expressed relieving some of their problems in their adjacent neighborhoods. Further comments? All in favor of the motion say aye.

>> Aye.

>> Mayor Leffingwell: Opposed say no. That passes on a vote of 7-0 and the appeal is denied. That brings us to number 97.

>> Good evening, mayor and council, matt holland with watershed protection. No longer development review. We have actually do represent a team of city staff from watershed protection, austin water utility and the planning and development review department to present to you tonight an innovative water -- excuse me, update to the original landscape ordinance that was passed in the 1980s. We've got a power point to present. The first slide actually shows -- the opening slide shows one example of landscaping. This is at high land mall in central austin that unilaterally installed one of these land escapes that we'll be talking about of their own accord recently. The reason we're here tonight is that many believe that the current way we have landscapes designed in austin do not fully take advantage of -- of the great natural resources of rain water, and this first slide shows a classic example. The raised median where in the landscapes are positioned above the pavement surface. Rain falls on to these areas which is shed off quickly and goes into a storm drain system on out into the water quality controls

and down to the creeks. And then in order to keep the plants alive, you've got to bring in potable water to keep them alive. So this setup is mandated by code. We, of course, require commercial landscapes for beauty and shade and many other good reasons and that is always going to continue with this revised version of the ordinance if passed. But right now all of these areas are required to be irrigated with potable water. Tip ripley the planted beds are place -- typically the planted beds are placed higher and the pavement and it's shunted off through the pavement and out of pipes and out of sight. And given the fact that the plants do not receive very much water in this fashion from rain water, they are -- must be irrigated. This resolution is -- I'll skip through this slide. Basically you guys kicked this off last november with a council resolution. And ask that we use rain water more wisely, conserve potable water, and help improve water quality. I'll show you how all these things work. This is a simple schematic. The top slide shows the classic example. You will see this in most every parking lot in town. Water proceeds from the parking areas down to the middle drive aisles and on down usually into inlets. And then what we hope to see is the reverse where you have a crowned drive aisle and the water proceeds to the medians where plants can actually receive the storm water. One nice note on this, our irrigation experts were noting is that if you actually have some irrigation problems and have overshoot of the water in the medians, the water will come back to the plants instead of just going into the middle of the pavement and actually wearing out the pavement. I just want to show a few quick examples. edwards university some years ago. They actually put in on their own accord a water quality control. That gravel in the middle is the top part of a sedimentation filtration system. Here's an example at the wal-mart at ben white. The head waters of the creek. This is just basically an overland flow schematic where they direct water to the medians. They are not trying to meet water quality as this ordinance would not require you to meet water quality and landscaping at the same time, it would just give you that option. Lcra red bud center here along lake austin has a number of innovative controls on its -- in its storm water controls. This is not meant to be a water quality feature per se, although it does definitely provide at what level of water quality and that the water is directed to these medians. Very lovely planting. Avery ranch, this disconnected pavement, what you see are curb -- wheel stops to make sure the cars don't proceed into the landscaping and damage either the landscaping or the landscaping damage the cars. But the water can proceed and flow into the landscape and water the grass. Such an application could also have potable irrigation, but we're at least taking advantage of the natural rain water. Here's a nice example of a town home project near the old concordia site in central austin where they are just basically disconnecting downspouts and directing the water to this landscaped area by design. So the ordinance changes are relatively simple. We require a certain amount of landscaping on each site plan as it comes through. So this is called a commercial landscape ordinance. This is going to affect anything with a site plan, which means -- in the city limits. So that means commercial, multi-family, office, civic, et cetera. It means to think not single-family residential or duplex. And so right now we require a certain amount of landscaping occur in these medians and in what we call the street yard in front of -- between the buildings and the roadways. And there's some calculations, basically 20% of the area need to be landscaped and there's additional requirements. We're asking of that area that's required, we ask that 50% of that be watered with -- with storm water. So you would do these kind of techniques I was showing you earlier in the photographs. It doesn't have to be part of that literal 50%, it could be in the back, on the sides, as long as you direct water to an area equivalent to that 50% of the required landscaping, you meet this new ordinance. There's some details to make sure that our plan reviews can follow along with what the designers are proposing. And we met with our spills response group to make sure we weren't going to do something silly like have a highly polluted runoff and pollute the plants. From pavements like gas stations and scrap yards and the like will not be expected to drain to water quality controls nor will you have to comply with this with pavement draining to go the edwards aquifer recharge zone. Again, you've already seen a number of these things. In addition to overland flow and disconnected downspouts which I mentioned, rain water harvesting. One of our up and coming water quality techniques is the use of rain gardens and we're thinking this is a very logical way to meet this ordinance both for water quality and for landscaping. We wanted to make sure that we value existing vegetation and make sure that that's fully protected. And so we -- part of the 50% of the required area can simply be an undisturbed natural area. And we see this all over town. There's very many applications of this already where folks set aside some nice -- nice vegetated areas. And so whether or not you direct storm water to these areas, you can still get credit, with the exception that we really don't want you see you putting potable irrigation into these areas because that negate the purpose of this

ordinance which is potable water. However, we did clarify with some of our stakeholders that you will build a -- plant new trees and maybe restoration kind of plantings in this area if that's called for and you will just excise out that modern footprint of the new planting and count the area around it as still undisturbed. This process is actually -- has been a very deliberative one. We met with the environmental board back in June and they kicked off a very successful, we think, series of stakeholder meetings in one of their subcommittees and we meet five times with this group. A wide array of landscape architects, civil engineers, design professionals, folks that maintained landscapes professionally, the environmental community, many different people showed up at these meetings and we had a good discussion. And part of that we actually did change the ordinance from its original version, and one of the changes that was made was the -- especially the landscape design community was concerned these medians and islands and peninsulas would need, especially the new trees would need permanent irrigation even though they might be getting storm water irrigation in addition due to climate in Austin where you have prolonged periods of dryness. We have a provision that calls for the permanent irrigation of new trees and we do recognize there are probably certain circumstances in which you could maybe use storm water only and not permanent irrigation. It may be limited. We understand there is interest by some of the council to perhaps introduce a measure that would allow us in our criteria to address that. Again, maybe on a peripheral area, but we want to carefully look at that in the criteria. And the biggest change here in talking with our water conservation colleagues is that the permanent irrigation is not going to be required on the peripheral area. Most of the site plans we looked at this of the the dominant preponderance of the footprint was in perimeter areas. Often three-quarters of the area was in these areas and much less in the medians. That would be option. You could just grass swales, these various techniques. And, of course, you would need to establish any new vegetation for two growing season periods just like with our other landscape revegetation. When council passed the original resolution, they called for -- wanted to make sure that unique site conditions and other variability were taken into account by the ordinance and so we have explicitly written in an administrative variance process to make sure we're not trying to make water run uphill or something crazy in order -- asking folks do something inappropriate or silly in their design. And also we also in discussing this with the stakeholders, we agreed to put in a two-year kind of review period at the end of this because we are hoping -- we are very -- we're confident this is going to be a successful program and we would like to come back and review it and potentially take it to the next step, next level. But conversely, if things need tweaking we can also make adjustments at that time as well. So that was of great interest to the stakeholders. This ordinance is part of the zoning code. It only applies to the zoning jurisdiction meaning city limits, and there are a few areas that would not -- in which this would not apply. The landscaping code is already exempted from the downtown area. It is also exempted from the university neighborhood overlay and Uno district. They have their own landscaping requirements and so this would not apply in those areas. If you do not have a street yard, it would not apply. If you had a roadway project, the city might choose to do that because it's our project but it would not be a requirement. It would not need to be [inaudible]. Before I summarize, I really did want to thank the environmental board as a whole Bob Anderson who really took a leadership role in this process and guiding this through. These five stakeholder meetings we gained a lot of knowledge and I really wanted to express my thanks to the whole watershed protection and water utility and planning development and review team we worked with. So we're hoping and strongly believing that this ordinance will help us conserve potable water and improve water quality by using rain water wisely and preserving existing vegetation. We believe that the -- that unique site challenges are addressed with a flexible menu of options to achieve compliance. Prior to you all kicking this off, we came back to you and showed that many, many communities around the country had already been doing this and we feel that this has shown great success and we want to build on that success with our own Austin implementation and I think we're most excited about the fact this is an important step in building a new generation of sustainable green sites today starting now. So with that, I will entertain any questions.

>> Mayor Leffingwell: Questions of staff? We do have two speakers signed up. Councilmember Morrison.

>> Morrison: Were you able to put together any analyses or estimates of what kind of water saves citywide we'll gather?

>> We did an analysis. We were anticipating this question. I'm going to ask our water conservation group to come up and --.

>> Good evening, councilmembers. I'm in conservation manager for austin water. Our staff did look at a number of sites in conjunction with watershed protection to estimate what percentage of water reduction we might see. We made a conservative estimate because irrigation is optional, we don't know how many people will actually choose not to put in the potable irrigation system. So based on assumption that storm water would meet about half of the landscape water requirements for that portion of the site, we came up with conservative estimate of about 20,000 gallons per day that would accumulate over time so that at the end of, say, ten 2 mgdd in reduction. It's based on an average day water use. That's a ballpark. It's not a huge water saving strategy but a lot will depend on the analysis we do in the first two years to see how many sites choose not to install permanent irrigation.

>> Morrison: Thank you. And I just want to thank you and matt for the good presentation and all the hard work. And I notice there's nobody signed up against which means you did a really good job, i think, in terms of outreach.

>> Mayor Leffingwell: It could mean that.

>> Morrison: Could mean you just forgot to give notice. [Laughter] but I'm sure that's not the case.

>> We double checked that actually. I did want to mention that this measure does tick off a number of boxes in the sustainable initiatives at the lady bird johnson wildflower center and texas has put together and it's definitely an important measure we feel in building better sites in austin.

>> Mayor Leffingwell: Thank you, matt. Good work by staff and the environmental board on this. So, first speaker is roy waley. I don't think he is here so -- oh, yes, okay.

>> [Inaudible] [laughter]

>> well, that's one christmas wish that won't be coming true for you. [Laughter] good evening, howdy, I'm roy whaley, vice chair of the austin sierra club. Happy holidays and christmas and kwanzaa and the winter solstice. We are very enthusiastic supporters of this, and do admire and thank matt and the people over there that have put in so much work on this. And it has been a tremendous amount of work to take such baby steps because this is a good baby step in the right direction. And these are the things that we need to be doing. These are the ways that we do need to be capturing and reusing water. I would like to see this go forward from this to requiring gray water capture on site and reuse on site. Unfortunately, depending on how you look at it, unfortunately I wasn't able to be here last week when you talked with the solar incentive package. And that was something that those folks had been talking with the austin sierra club was capturing water on site, gray use on site. So we would like to see it continued there. Also knowing that we can't, i think that we can offer incentives that will get people to do this in the, also with open space, et cetera, there are creative ways to do this. So just wrap it up, we're happy about it, want to see it passed, want to see it done. And incentivize these guys so we'll get to the point where we can capture and reuse enough water that we'll never have to have another conversation about water treatment plant 4 ever again. [Applause]

>> Mayor Leffingwell: We can only hope for that.

>> It's the holiday season. We can dream.

>> Mayor Leffingwell: Next speaker is bob anderson.

>> Thank you mayor. Carolina of fun to be on the other side of things because I'm usually on the environmental board. I'm delighted to support this ordinance and feel like we're advancing the ball

slowly. Maybe it's drip by drip by drip, which I think is how we need to start thinking about irrigation. So with this ordinance we're really moving forward. In 1983 when we passed the first landscape ordinance, it was a major radical fight between [inaudible] this is a collaborative approach. We took a long time. We were sorry you all passed this resolution a year ago, but it's my belief that leading the industry, the real estate people, the Sierra Club, all the people who have a stake in this through a slow, deliberative process, we covered more ground and were able to include more people and do a more accurate way of crafting this ordinance. It's not a threat to life as we know it. As you looked at some of the illustrations that Matt showed, this is good landscape work. THIS IS NOT THREATEN AND 90s -- Threatening and it's not going to change real estate values by this idea. So I think it's a wonderful idea and I hope you pass it tonight. Thanks.

>> Mayor Leffingwell: Thank you, Bob. Michael Wilt is also signed up for but does not wish to speak. Those are all the speakers that we have. And so I'll entertain a motion on item number 97. Mayor pro tem moves to close the public hearing and approve the ordinance on all three readings. Seconded by Councilmember Riley. Further discussion? Councilmember Riley.

>> Riley: I would like to say a couple words. First, I want to add a word of thanks to the staff and the environmental board and the whole community for all the work that's gone into this. It is a very exciting idea and a lot of very progressive, innovative, creative thought on some difficult problems and results in something that's going to be a tremendous benefit to the community. It reflects a fundamental shift in the way we approach landscaping and the way we think of rain water harvesting. In the past we think of rain water harvesting in terms of barrels and tanks. Capture the rain and funnel it into some big barrel and then figure out something to do with it. And lately around the country people have started to recognize that there is a different approach to rain water harvesting and that's simply a matter of allowing the earth to serve as a natural function to capture the rain water as it falls and utilize it right there where it falls instead of shunting it off to the side and bringing in very expensive chemically treated potable water to water the landscaping. It's a matter of using that rain water on site. Efficient use of water, the plants like it better and everybody wins. I'm very excited that we're making this shift. I'm hopeful this will work out so well over the next couple of years that everyone will be eager to move to the next step which, of course, this ordinance speaks to 50% of landscaped areas and as far as I'm concerned there's no reason why you couldn't actually extend that to 100% of your landscaped area. You could direct storm water runoff to all the plants and I hope we'll get to the point we're comfortable in taking that next step. I would like to make just a couple of minor amendments to the language which I hope will be friendly. Matt mentioned these during his presentation and we talked with the stakeholders about these and I hope they will be acceptable. First relates to the irrigation -- the potable water irrigation that's required in landscape medians at the time you are doing newly planted trees, newly planted landscaping. And the amendment is -- I passed out the amendment language on the dais. The amendment would simply amend part 2, section 25-2-1080, section e to allow city staff through the rule making process to determine a level of potable water irrigation required [inaudible]. And basically it would say you're not required to put stuff in permanently, necessitated -- you are not required to install irrigation permanently. Staff will figure out an appropriate rule for the newly planted part in those areas. And the second in the amendment is a matter of the effective date. There's an error currently in ordinance language that's been made available that currently SAYS SEPTEMBER 20th. Part 5 of the ordinance and that should read December 27th the ordinance will take place on December 27, 2010. So I hope those two are considered friendly and with those amendments I'm happy to second the motion to approve.

>> Mayor Leffingwell: Does the maker consider those two items friendly? Oh. And obviously the second does. So can you furnish that in writing to the city clerk? I assume there's no problem with making those minor changes on all three readings. All in favor of the motion say aye.

>> Aye.

>> Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0. That brings us to item 98.

>> Good evening, June plumber. Item 98 is a change in use in parkland season in as a chapter 26

public hearing. The legal fact finding for item number 98 is that there is no other feasible and prudent alternative to the taking of the dedicated parkland. The mitigation on this transaction consists of two parts. The permanent use and the temporary use total \$116,103.620. On november 30, the subterranean easement was taken into consideration. That amount is \$156,549.86. For a total mitigation of \$272,653.47.

>> Mayor Leffingwell: Okay. Questions for staff? Councilmember morrison.

>> Morrison: Could you walk through how we -- how that mitigation recommendation was derived?

>> Sure. We've had a standard operating procedure for calculating mitigation. Chapter 26 calls for mitigation. It's not a current fair market value was we often discuss. And we look at the assessed tax value surrounding residential properties. It's an opportunity for us to kind of look at each park and the surrounding areas and what those tax values are. This actually came into being when we are doing austin clean water and we had 38 parks that had a change in use on parkland, and we tried to come up with a formula that would help us standardize our mitigation as we proceeded with these chapter 26 hearings. 64 a square foot. And on the subterranean, we looked at one of the other private properties that is being appraised, and the subterranean because it can still be built on on the surface takes 10% of what you look at the value of the property. So that \$156,000 and change represents that 10% for the subterranean. And we've added those two together to come to the 272,000 and change.

>> Morrison: And the requested area for the subterranean, how do you figure out what the area of the subterranean is?

>> We have that calculated, 162,384 square foot.

>> Morrison: But it's actually cubic feet.

>> Right. And we had them calculate to square feet so we could put apples to apples.

>> Morrison: And it's conversion --

>> I'm sorry, I don't know that.

>> Morrison: And was it the water utility that did that?

>> We had a surveyor. I think those surveys are part of your backup.

>> Morrison: So maybe the explanation will be there.

>> I don't know that that number is there, but it's a total square footage for the easement area for the subterranean of 162,384.

>> Morrison: The confusion for me it's cubic feet, volumes, not area. I'll look in the backup.

>> And the 10% represents-on if you looked at your property rights as a bucket, 10% of property rights are taken from that subterranean is what we looked at. So that calculation is 10% of those -- the property value.

>> Morrison: Thank you.

>> Mayor Leffingwell: Any more questions for staff? Go to our public hearing. And begin with karen blythe. Is mary holder in the chamber? No? Kerry williams? No? Warren johnson? Warren is in the chambers. So you have six minutes.

>> I'm Sharon Blythe, I represent the Spicewood Springs Road Tunnel Coalition, a group of neighborhood along Spicewood Springs Road that will be impacted by the shaft size that the water utility is proposing. I have a video I'd like to show you. About four and a half minutes long. It has sound with it.

>> What happens with the city allows development in the name of progress to disrupt our communities and parkland? A quiet neighborhood in northwest Austin knows firsthand. Austin Water Utility was proposing to turn some of the Bull Creek parkland into a large shaft site as part of the construction of a new water main that will be running from Water Treatment Plant 4 to Jollyville Reservoir. The proposed construction activity even details digging of 55 100-foot shafts on dedicated parkland less than 200 feet from Bull Creek and less than 100 feet from neighborhood homes. Austin's neighborhood planning guide discourages this kind of activity near homes. And the community feels the city should be abiding by its own rules. The precious preserve holds the protected golden-cheeked warbler habitat and it would endanger this species.

>> For the city to say mining [inaudible] no impact and no damage from noise or anything else on the habitat area of the golden-cheeked warbler flies in the face of their own rules that they made up.

>> The community formed a coalition which had one goal in mind, stop the shaft.

>> [Inaudible].

>> I live out here, I live right across the street. [Inaudible] a major construction project.

>> Stop the Shaft has come together to protect the communities of Spicewood Springs and the Bull Creek Nature Preserve from the damaging effects of Austin Water Utility's Water Treatment Plant 4.

>> The citizens of this community are saying you need to red tag this project and shut it down.

>> After months of deliberations between Austin Water Utility and Stop the Shaft, the community was successful in downsizing the shaft site to a less pervasive retrievable shaft. However, major construction will still occur over a two and a half year period.

>> Move it out of the Bull Creek watershed because it was too environmentally sensitive but at the time no one considered the transmission line was probably more of a threat to the environmental ground here than the plant itself. And they are all in a position of we're willing to take that risk. Well, I'm not. They are learning as they go along.

>> The coalition had a minor victory when they convinced Parks Board to delay final decision until all studies were completed. However, Austin Water Utility chose to bypass the Parks Board ruling and take it straight to the city council for a vote. The environmental impact is unknown and Austin Water Utility has no plan to mitigate damages in case something does happen. What one small community now faces could soon become a city-wide problem.

>> So I think that we have to hold the city accountable. We could end up with things that are going to hurt us in the end.

>> This may be stop the shaft and that's our call because we don't want this mining shaft in our neighborhood but somewhere down the line it could be something more. This is really stop the city.

>> The fight is never old. Tell city council taking our parkland is not an option and by passing their own rules sets a bad citywide precedent.

>> I ask you to delay this hearing. Thank you. [Applause]

>> Mayor Leffingwell: The next speaker is Paul Robbins. Tommy Anderson in the chamber? Tommy

anderson in the chamber? Elliott george? No? Victoria miller? So you have six minutes.

>> Thank you. Council, I have two major points to make. The poor organization of the proposal and its relation to the board and commission process. First, it has been my observation over the years that people who manage large amounts of money often don't know the value of it. Right now I'm not poor, but i have been several times in my life. And I manage money very frugally. IN THE 1990s, I WAS Determined to get a house of my own. I figured it might be the only way I could continue to live in austin with housing costs going up the way they were. I used all my savings to buy an inexpensive lot. I made sure to pay for title insurance. When I got the loan to build the structure, the lender surveyed the structure and land twice during the construction process. All this for a very modest home. In your case, you're building a project that by some measures will be \$600 million plus interest plus money in excess of the 140 million already spent, and you haven't secured all the access land. I couldn't get a loan for an 1100 square foot house without securing the land. Forgetting about whether it's right to build this facility or not, this is no way to manage or mismanage ratepayer money. Regarding boards and commissions, I find it curious the way the water utility is interacting with them of late. The parks board did not want to see the land we're discussing tonight without seeing the environmental studies. The board rejected the utility's request and the utility went to council for approval. The water/wastewater commission is actually for the water treatment plant. They reject the utility's request for a single allocation of money and it was taken directly to council. The resource management commission has wanted to have input on the new water conservation plant for months on end, but the utility ignored them and went directly to council without sharing the plan with them. This was scheduled to be delivered today, but for some unknown reason it was postponed. All of the boards and commissions in austin serve in an advisory role. They are all appointed by you. You enable them and you are free to ignore them. However, it should be a strong indicator that your constituents that you appointed have serious questions about the way the water treatment plant construction and water conservation are being managed. Thank you. [Applause]

>> Mayor Leffingwell: Next speaker I mormon and donating time judith telisky. Okay. Brandon richard. All right. So jan, you have up to nine minutes.

>> I'm john mormon and I -- I'm jan mormon and I spoke when a month ago and I'm quite sure we know this vote will go 4-3 and I'm here to make sure that when the work starts that there are some rock solid guarantees. And so what I've just handed out is what I think something that can go far in making sure that at the very least what goes on will be safe. And I'd just like to read through this list if you have any questions. I have worked with the people in the stop the shaft. The first is dust mitigation especially during shaft excavation and grouting. We understand that there are different ways to achieve this. We're thought trying to say how, we're just saying do something. Noise mitigation associated with shaft excavation. Once again, I'm not sure how that can be done, but that something be done. We would like to have a one point person to contact besides 311. Workers, drivers, inspectors, site visitors, not to park on public streets around the work site. This is very troubling because when I did have a conversation with someone about this, they are like where do you think they are going to park? I don't know. We had heard they would park and be trucked in or bused in. Obviously unless we get this written in a memorandum of understanding, they will be parking on our streets. We would like to make sure in a memorandum of understanding that what you say that the trucks will only be between and 3:00 p.m., that this is true. If all we have is your word, how is that going to hold up in court when something happens. We would like to make sure that no other neighborhood roads are used. We would also just like to have it written down that this work will not occur except for the subterranean boring on weekends, holidays, before 7:00 a.m. or after 7:00 p.m. So that when I come home from work I can sit on my back porch and I don't have to listen to a mining operation. [One moment, please, for change in captioners]

>> so I feel very strongly about this. At the very least that pedestrian crosswalk would need to be removed so we don't lull children into a false sense of security in crossing that walk. The 8th point which I've handwritten in because i forgot to include it in the typed list, is to make sure that this site is run cleanly, construction debris is removed daily or on a reasonable basis so we don't, when we drive down our mountain at a very steep angle and we can see totally into the site, that no fence will shield from our vision, that it doesn't look terrible. I'm kind of a neat freak and I'd like it to be run somewhat cleanly.

Afterwards, and these points are very modest, we'd like to make sure that we get it left a little bit better than when you got it, and so the first point just has to do with fencing and asking it to match across the street, that we get a little bit of mowing going on there bimonthly and that we get parking, because right now we don't have parking to the trails in the area. These are very modest requests. We'd like to make sure that that parking includes the site at the lift station, because as you may or may not know, we've got some fabulous trails that have already been put in there, and they're starting to get known and people are parking. We'd also like to make sure that austin water utility does not get exuberant and start putting permanent buildings in there, that they just leave it with manhole coverment that's it. That's -- cover. That's it. That's all I have, I don't know how this gets included but I do understand that it can be included as a memorandum of understanding and I feel very strongly about it do you have any about it. Do you have any questions? council member shade. I don't have any questions but I want to point out we've received this list many, many times so you're doing a good job getting your email list out, so I have taken the list and already started exploring many of the items on this list and I think many of them are doable. I think it's important -- many of them, in fact, all of them, that some aspect can be done. I think it's important to recognize this is construction that won't be done for a year so I checked in with mwh to see what is the process for getting some of these things incorporated into what they call a construction document. It's actually not an uncommon thing for them to do this. So I've got some contact information. I have -- I understand the condos have a representative that might be specifically, you know, already in some conversation. I'm not exactly sure. It's hard to over the last couple days figure out who's talked to who, and that's always a challenge. There are also some items on here that are not the responsibility of the water utility but I will give you my pledge like on the streetlight and the traffic issues, to work with our transportation department. Some of the other things you've mentioned are related to parks and also not in the water utility's purview, even though it's all one city, they all do operate sometimes more independently than we like. But I will -- I just wanted you to know that we've all gotten your list and several of us have talked about some of the items and --

>> I feel like I've gotten good reception. and it's a really well done list. So I want to say thank you if you're the one who actually came up with it.

>> It was a team effort. thanks to all you guys for circulating it, and we'll -- and I do have some contact information. next speaker is joe wheeler: Donating time amanda batson. So joe, you have six minutes.

>> Members of council, a lot of what jan said is right along the lines of what i was going to say, but I want to point out a few things about this overall project. It's huge, and in general business and life, there's three things that you can you can have good, you can have fast, and you can have cheap. Well, cheap has left the building on this one so all we've got is good and fast. I think the speed that you're taking on running this project through, bypassing your boards, not listening to their advice, is going to end up -- the one that's that's going to be left, it's going to be bad, and it's not going to work out the way that you think it will. I hope that you're as lucky as you're hoping to be on this project. With all the risks that are taken on this construction project. There are alternatives that have not been explored. [Applause] that are viable, that have been ignored. They've been held from the public's view in order to ram through this idea that happened to be the first idea on the table. Now, we understand that the city has some deadline of 2014 that seems to be an arbitrary deadline. You won't need the water by then. Taking a few extra months to get this thing right will ensure that you'll get it done in the time that you want it to be done in. If you get into the middle of the bull creek area, you run into a cars zone that you have not yet studied because the studies haven't been published and you're making decisions based on voodoo studies, you're making the risk that you're going to run into an unknown that will further delay the project beyond your wildest dreams, and that will not keep the project on budget. It's really kind of sad that the state of government in this country has gotten to the point where you're expected to not even follow your own rules and just use the pure weight of your bureaucracy to run over the citizens that elected you. [Applause and cheering] haze and force without solid knowledge is -- haste and force without solid knowledge is a recipe for disaster. This is obviously -- and i want to make it clear -- this also very clear. This is your deal. If this doesn't work out right, it's your deal, because you have over ridden everybody who's tried to advise you on this. There's not going to be a place. [Applause] you can hide because you've over ridden them. You've given water utility all the mope they want. There's no way

to come back and say, oh, I want to check on how you're doing, and I'm sure you might be able to find or try to find a place to hide, but it's going to be hard. It's going to be really hard to find a place for you guys to hide if this thing doesn't go down right. I would suggest that you take a step back and make sure that this is the best thing for all the citizens of austin now and in the future. And I'm not talking about water treatment plant 4. I'm talking about the construction of this transmission line using the methods that are being proposed. If you have any questions, I'll be happy to answer them, but I think that's about it for me. thank you. Next is bill wall. [Applause] donat i donati ng time is tammy kegy. All right. Susan lindsay reeger. Not here. Reich? Is she here? Steven rice? Here. Kathy pong. Kathy pong not here? So jill, you have up to 12 ments, following jill will be martin leroy. 12 Minutes.

>> The order that they are, please. are you ready? Okay. We'll take martin leroy. You have three minutes.

>> Thank you. I decided to come down here today. I was trying to think of what I was hoping to leave with, and the main thing is I want to leave today with a faith in our government, in our city leaders. So from what I know of this project, I'd ask you to vote no on the shaft proposal. I think it's too big a risk to the environment. It's unnecessarily disruptive to the neighborhood. There are better alternatives, from my understanding, some of them -- there's speculation of them being secretly kept because of people wishing to proceed with the current proposal. The parks commission -- water commission not supporting these just seem like big red flags. Perhaps those that are in support of this know things that lead them to want to vote for it, and so what i ask is that for the large group of people who have been coming down and donating our time and energy here, that you please explain to us the reasons that you're in support of proceeding with this, and maybe it will become apparent that you've got good thoughts there, and even if you don't vote the way that I'm hoping you will, it will give me a chance to leave with that faith in the government that I'm hoping to leave with today. So please help us understand why you think it's a good thing to proceed with this project. Again, you can be supportive of water treatment plant 4 and not be supportive of this transmission line proposal. So please give careful consideration to drawing the distinction between those two. There's an environmental issue that comes up, it will certainly will push out the timing much more than an extra few months, but supposedly some alternative proposals would provide. So I don't see why this has to finish by 2014, so hopefully somebody can clarify that if this does move forward. Thank you. thank you. [Applause] are you ready for your presentation? If not we can go to somebody else. Ready yet? Okay. So you have 12 minutes.

>> This is just an iPhone CAMERA SHOT OF What the -- I'll start with jill road -- I'm jill rhodes here to speak on behalf of the shaft group, and I want to start with the notice itself. My background, most of you know me. My background is commercial real estate, and frankly until this project I had never been a neighborhood advocate, so to speak. I was generally speaking from a different perspective, but -- anyway, one thing I want to look at is my big thing is I would like to see this run as a first class real estate project among other things. I'd like -- there's no reason that the real estate aspect of this should not be at the top of its game. Specifically, looking at this, if you look towards the bottom of this it says, said use shall be out of the multiple tracts of parkland known as upper bull creek greenbelt. I would love any of you from just reading this to tell me where you think the project is, because the whole part of chapter 26 if we flip to the next -- next one -- let's look at what chapter 26 says one needs in terms of notice. And this is pulled straight out of the parks code. It says the notice must state clearly the proposed program or project and the date and place of the public hearing. I could appreciate that that prior thing did make some description of what was actually going to be done on the site, but it didn't actually give any notice of the actual real estate. It did not say a legal description, which is pretty basic to real estate. Frankly, it didn't say the city, the county or even the state. So I want to start with I'm not really so sure of the validity of the meeting we're having tonight, but just throwing that out there and we'll proceed forward, but if anybody else wants to stop we can. But -- so flipping to the next document, back to -- one of the things jenny pull pullver had mentioned regarding some surveys and i want to talk about what surveys have been provided with this document. And -- can I flip through this? Yeah, there we go. Looking through this, if you look at the top left of the document, if there's a way we can blow this up, it says this survey was performed without the benefit of a title report and may not include all the easements or instruments pertaining to this property. The way real estate is done. You give the survey

to the title report -- does the survey from the title report. That's the whole purpose of the survey, is to put the title report issues on the survey. So if the survey has been performed without the title report, that means that really has no basis. One of the things I want to point out with this is if we look at this, you'll notice this easement here, this happens to be in an area that is the -- do I have -- I don't know if I have a pointer here or not. No. Anyway, the -- if you look at where the easement is, it basically goes directly under the waste -- the wastewater lift station, the one that's been in the news so much with all of this leaking and problems that still has not been, as I understand it, completed. And so here we're putting the main water line for the city underneath the wastewater treatment. And it's not just, to me, a matter of distance. It's a matter of which one is on top, because we all know things flow downhill and I'd prefer that to be water flowing downhill rather than otherwise. Anyway, then we flip back to the rest of this, and let me read the surveyor's certification, whether or not they drew a survey. It says no review has been made regarding the correctness of boundary line configuration, easement configuration -- it's like, wait a minute, aren't we drawing an easement? Okay, and calculations used in the production of this document. I mean, in other words, this is basically a nothing, and if you look at the bottom of it, it says sketch to accompany field know. Even the surveyor is not calling this a survey. I would really like us to have surveys on these things, and really, I think they need to be done prior to tonight. But let's flip to another one, and let's look at the triangle, because that's been the most kind of conscientious site. One of the things that's interesting about that one when we look at this one, it's got the same kind of -- the same kind of disclaimers on it, if we look at -- flip over here. It's got the same kind of disclaimer going on here where it says, this survey was performed without the benefit of a title report and may not include all easements or instruments pertaining to this property. Well, sure enough it doesn't have the slope and fill easement that we know that we've pulled up. Again, you know, we'd really like to think that you guys are pulling these things up and we as a neighborhood aren't pulling up new and different information. It's interesting, on the prior drawing I was showing you all, there was no drawing showing where the lift station was. There was no drawing showing where the lift station easement is. I mean, to me this is like real estate 101. I understand, I've been doing it 28 years, but in the very first year of real estate I figured out what belonged on a survey, and pretty much everything important belongs on the survey. One of the other things I noticed when we got these new documents, and these were new as of one of the parks hearings a month or two ago, the site which had for a long, long time had 9 acres had shrunk to .49 acres and it was related to the 200-foot setback from the creek. So for knew if you look at the size of this it's .49 acres, and if we flip to the last document and go to page 8 of the last document, what we'll see is a drawing -- see, we've been asking Austin water utility for months now, now that you 89 acres to .49, we want a drawing of what you plan to do on the site given you've lost basically half your site, and it appeared awfully full even at point 89 acres, so what we've been able to attain is any kind of drawing that vice president been able to obtain -- haven't been able to obtain that shows what we've been missing. So if we flip through this. 89 acres -- thank you very much, if you'll notice -- okay. 89 acres and if we 49, that's going to be about half the size. Is it just me or does it appear that you can't move the shaft, you can't move the crane, you can't move the cement grout missioning, and by the way, a ciewment couple things aren't shown. The hydraulic tank which has to be on-site, and the fuel tank, I know there has to be diesel fuel, maybe gasoline as well. And when you take something away, what you're basically going to take away is the place to run through the trucks. And what's particularly concerning about that is that means that I guess -- I guess if the trucks can't go on-site they're going to have to load in the road. The road -- the pavement here, as I recall, I had checked on it in the city web site at one time, I think it's 21 feet wide, but it's super-narrow. It's extremely narrow. It's like the narrowest category that the city of Austin has, and, in fact, at one point what we had looked here at spicewood -- point here at spied wood springs was already running at 3 tons past the recommended capacity. Now it appears that the road may become the loading zone. I have no idea what's going to happen. So one thing I would ask you guys to do is please, please tonight ask Austin water utility to show you a drawing that shows .49 acres, not this .89, but .49 acres and how they think they're going to fit it on there and how they're still going to keep the roads open while they do so, because that's important, and I would please ask you to delay any vote till you actually have a survey that says it's prepared with a title report and that a surveyor has certified as a survey and is willing to put their stamp of approval as being a survey, not a sketch, that has everything as-builts on it, including the lift station, that also includes all the easements, the slope and fill easement that holds the road up, because obviously that's important. If you violate that the whole road could collapse and this is a road that you by

the way, share with travis county, so I would think they care. But, you know, just basic real estate protocol, we'd really, really appreciate it, and along those same lines I'd like to just throw it out there that I'd also ask that -- I know that on wtp4 you guys granted all kinds of variances and then you got the original site, you know, put as a preserve in trade. I fully expect, because this thing doesn't appear to comply with the city of austin ordinances -- I fully expect a big laundry list of variances, and yet at the same time not anything else coming back at it either, as well as, frankly, with homes as close as you can see from this very drawing, I mean, look at how close bull creek ranch is. I don't know what amount -- I mean, even though it's not my home, I've gotten to know the people over there, and i mean, frankly, I just can't imagine what one can do to make that situation right, especially when you're talking about dynamiting that close. I mean, I don't know how you bend those ordinances and create variances in a way that can reasonably be mitigated, and frankly, if it turns out austin water utility does intend to use the road, because it doesn't appear they can -- I mean, they're only signing up 49 acres but 89, and I'd really basically like to ask that you-all demand to see a drawing for what they actually intend to do, and that it not involve using the road as their personal loading zone. So any questions?

>> Thank you, ms. rowe. [Applause] flush.

>> The next speaker signed up is linda strickland. Is mike strickland here? What about carol atkins? Roger nooner? And debbie russell? You will have up to 15 minutes if you need it. Welcome.

>> Good evening, council members. My name is linda strickland, and I appreciate the opportunity to speak with you-all this evening. I'm a resident of spicewood springs neighborhood. I'm also a commercial appraiser with over 20 years' experience in the domain, including quite a few projects for the city of austin, and specifically austin water utility. So I have a clue. As a member of the neighborhood, first let me say we are not opposed to the transmission main. We don't have a problem with the transmission main itself. We are opposed to making decisions about this transmission main and shaft site before the root alignment and shaft site locations are finalized, before the groundwater studies are complete, before site plans showing how the site will be used are done. In other words, before due diligence is completed. Jill and i, we've actually known each other for several years, and we're both in commercial real estate, and we understand this is how it operates out in the rest of the world. Confidence is great. I'm glad everybody is confident at austin water utility, but confidence is a feeling and important decisions are based on facts and not on feelings. So what I'm -- what is -- what are they asking for tonight? They're asking for permanent easements for the subterranean easement for the tunnel, a permanent easement for the shaft site, and a temporary easement around the permanent shaft site easement for all their work space, and as jill explained, that struck quite a bit recently. Now, the terminology here is easements are usually between unrelated parties. Agreements, resolutions are usually between related parties. However, all of the elements involved in these agreements, easements, resolutions are the same. So there's really no point in deciding is this an easement or a resolution. So the first thing you need to do when you're looking at an easement is it has to be a legally defined area. There have to be metes and bounds, field notes, surveys. So first of all, if that transmission main and the shaft sites are not finalized, how do you know you're getting the right piece of property? Are you getting too much? Getting too little? Going to have to come being ba and ask for some more? You don't know if that route has not been finalized. And then let's look here -- if you look -- jill went through this, but it struck us both so strongly I think I'll just go ahead and repeat it. Do you have a metes and bounds and field note description? It kind of looks like it. It's got the same type of terminology here. Do you have a survey? I'm going to say no. I think what you have is a survey light. You have -- it is -- the caveats in there are actually pretty scary, performed without the benefit of a title report, may not include all easements or instruments pertaining to this property. Would you buy a piece of land like that? No. Well, I wouldn't. So what are some things that might be missing? Since I'm an appraiser i know how to do due diligence. Here are a few things i found out that I think might be interesting to people -- to the engineers. First of all, there is a resolution. In 1985, it's 85, 12, 103, an enter local agreement between traffic county, regarding the construction of spicewood springs road. Here's the source of information about the construction and type of method of fill. That's been an big issue here about what's the fill, how deep is the fill, how is it done. Well, here's the source to find out about that. Now, here's another resolution, and this is the one that -- this is just a real kicker to me. This is 89052550. It's another interlocal

agreement between the city of austin and travis county about the installation of an 84-inch pipe sleeve adjacent to and under spicewood springs road. Do you know what that is about? Well, when they were reconstructing spicewood springs road, at that time they were anticipating putting the jollyville transmission main on through there, but then there was the bust of the '80s and that was all put on hold. But being forward of thinking the city decided, well, we're going to put this sleeve in here as a placeholder. So according to this, there might be this 84-inch void under spicewood springs road and adjacent to -- maybe on the shaft side, and I don't see anything on there, and i figure the engineers are - or contractors might be curious to know if that is there before they start drilling. And another one, the fill and lateral support easement for the integrity of spicewood springs road, signed april 1984, recorded volume 8555, page 598. Sounds pretty important. It is. It runs along the north and west sides of that tract they're proposing for the shaft site. It's there to protect the integrity of the road. What's going to happen with all the heavy vehicles traveling over it? Don't know. We don't have information about that. The last page on the survey, the place for the certification of the surveyor, only there's not one. There's another caveat saying that basically we didn't review it, we're not sure that these lines are here. The calculations weren't certified. Now, I'm sorry, is that a survey? It's not. So let's now look at the next -- next consent here when you're acquiring an he's him. You have terms of the easement. 'He's him. It usually tells who can do what, it tells what rights they retain, what rights they give up. Now, after the shaft is constructed, what rights are going to be retained by the parks and rec? Now, here's why this question is so important, is if you look at their charts on the memorandum of understanding, and you look at the rights they're acquiring, you're going to see on that shaft site, you see 100%. Now, 100% of the rights, as I recall, means all the rights. So if I take 100% of the rights in any of you-all's homes, that means I can come and kick you out because i have all the rights. Now, this seems pretty serious to me, so I would think there should be something specific in here. Will parks and rec will be able to use the surface for parking? Can they put pervious pavers there? Can it be the trail head? We've been told that they'll work it out later, but this one, since it says 100%, i would feel much more comfortable personally if we had something in writing right now. Again, there should be something about what type of surface structures are going to be allowed there. Again, they're taking 100% of their rights. They can put anything there they want to. Now, what about that temporary easement? What activities are going to happen there? You know, we don't have much information on that. Initially there was, when the project first started, but it's all disappeared now. There's going to be, apparently, pipe installation, spoil storage, grouting, material storage, people, some kind of vehicles. There's going to be a whole lot happening on a tiny piece of land. Now, we've heard that they're going to work out the details later. Well, my question is, why don't we know now? What activities are going to take place on this site? Where is the site plan showing how it's going to fit? And let's just take one of my personal favorites here, which is the grouting. Do you-all know what grouting will require? It's going to require hundreds of trips from cement trucks, dropping off thousands of pounds of cement, which is now going to go into a temporary batch plant. This is the part that's left out. A temporary batch plant will be installed there, and it will be used to mix the cement with chemicals and create a slurry, which then will be pumped into the tunnel. This information was initially presented, but has sort of been -- has disappeared from recent presentations. Now, this is messy, it's nasty, and it's going to be 200 feet from bull creek, 100 feet from residences, and it's going to be on top of three drains that are located there in that roadway. These drains that go directly into bull creek. So do we know how that's going to be protected? Is there any site plan that tells us about that? There is not. And let's just touch a little bit on compensation. You know that is what I do for a living. Texas law requires a licensed appraiser to estimate value for real property. Calling this compensation mitigation is kind of skirting the law here a little bit, and here's why this is a big deal. In this particular situation, this is a complex property. It's a complex issue, and damages should have been considered. This is why you need an appraiser to do this kind of work as opposed to someone working on an excel spreadsheet. The method they used, I'm sorry, I just didn't know whether to laugh or cry. This is really, really sad. They took the assessed tcad assessed value of surrounding lots, which do not have creek frontage, by the way, and then they divided that average value by the average size of single-family -- I think sf-3 lots across the whole city. Now, you don't have to be a math whiz to see where the problem is with that. This does not work. And so I went ahead, since I've been an appraiser for a long time, I have a lot of friends different places, and I was able just to make a personal off the record phone call. And I talked with investigators at the texas appraiser licensing board, and I explained this process, and she told me, that's an appraisal. That person does not have a license. They broke the law. If that

person has a lic they have other issues. [Laughter] so the other thing she told me is that there is -- the way the law is written right now, there is a little bit of gray area that a city employee might be able to skate by on, but there is a pretty good likelihood that's going to be tightened up in the near future. So just for the benefit of whoever is working that excel spreadsheet, they could be in some big problems. So now we come to -- now, here's another part of the question. Why don't we see that site plan? There's another reason for that. Because if you have a site plan, that's going to trigger rezoning, because that little corner piece there, unlike the rest of the parkland, is actually zoned interim rural residential. You can't put anything on it except one residence. Now, this type of development is, in fact, a development, and if there is a development, then you go through the proper process, and that's going to require rezoning. That's going to require a site plan. That's going to require environmental reports. That's going to require hydrological studies. It's going to require a whole list of things, and we have none of that. Now, I heard leznik said the other night that it was simply -- we just didn't understand, that this process, it would all be taken care of later. Well, the truth is we do understand quite well. A private company, or even another public utility would be required to go through this process. My question is, why is austin water utility allowed to skate on this? These are some -- this is some pretty serious stuff. We're talking about a very nearby creek, very nearby residences. We're talking about things that could be damaged if you don't have all the information. So -- and I'm not saying don't do it. We're saying, hey, just get the information. Are our faucets really going to run dry if the opening of the plant is delayed six months? I just don't -- I just don't think that's going to happen. [Applause] and the last thing I'm going to leave you with since I've been in business in this town a long time, some of my friends were telling me the other day that, yeah, they've been watching this. Well, they've been watching it from their perspective as brokers/developers that have had issues with the city in the past, and they're really curious to see how many of the city codes and procedures austin water utility is going to be allowed to skirt. Thank you. [Applause] ski clerk, can city clerk, can you mark jill rhodes and already have spoken? The next speaker is mary arnold. Mary armed here? After mary arnold is richard welcome, richard, you'll have three minutes. And after richard it will be doug young.

>> Good evening, mayor, council. I hope to talk to you guys today about some of the responses I've had from people. Since I was here at the budget hearing I've spoken to approximately 800 people, half of which about are around lake travis and about another half around the city of austin, mostly in travis heights and hyde park, up into lake travis area, I've gone to spicewood springs, to stein ranch, to comanche trail, and what was really shocking with the exception of people that were right along the tunneling site, most people didn't know very much at all about this project. Some of them said, what tunnel? What treatment plant? Like you got to be kidding me, you're in steiner ranch, you're on the lake and you haven't heard about this? So I think that says a lot. And furthermore, of the people that have heard of the project and knew more than just, oh, we're getting a new treatment plant, most of them were irate. And I'm getting more upset now too. I had two people cry at bull creek -- bull creek condominiums, bull creek ranch condominiums. Two grown men cried. First man said -- and he said, I don't even care about the salamanders. He said I don't care about the creek. I'm in this for my self-interest. He said I wish I had a recorder because I heard a city of austin engineer come through and say we could condemn these properties. They're nice houses. They're clustered together. Urban tendencies, thee tried to keep the creek protected. The second guy, they saw the development of their tunnel -- a sign saying there would be a tunnel coming. He didn't know it was 8 to 10 feet high. He started crying because he told me he had memories of going to bull creek and enjoying it as a kid and he could see how this could completely destroy it. Yesterday I spoke with four business owners and eight business managers, everybody from a man named beau that owns oasis tax, a massive development, to another owner of, well, I have some business cards I can hand you guys, but even this owner of this multi-million dollar development didn't know much about it. He said, I'll look into it. And I said, you got to be kidding. Really, the city is making these huge decisions and hardly anybody even knows about it? So we've obviously failed at making sure people know what's really going on with this project. And you know what, when people don't really know about what's going on, when I talk to them they say messed up. We're going to spend all this money, there haven't been environmental reviews completed, we have other alternatives. Even this man carey, who claims to have been -- he claimed he was a kvr water contracts, claimed to be in afghanistan, and he claims to have run ulrk in the early nights. He said we could expand to 3 million gallons a day. Problem solved. We have options, we have

time. What we need is the respect of making sure people know about this and get them -- you know, make sure their voices are heard. Thank you. [Applause] > next speaker is doug young and then bill bunch.

>> I'm doug young, I'm here tonight representing citizens organized for lake travis, a fairly new civic organization whose members and supporters are interested in the protection of lake travis, protection of the water source. They're very concerned about the -- the pressure that's going to be put on the lake to draw the water down, the pressure resulting in part from the fact that there's going to be an incentive to sell as much water as possible to pay off the debt. No, we're not here to talk about those issues now, but -- I'll refer to them as colt, citizens organized for lake travis. They share all those concerns you've been hearing about for so long, and they're comprised of people who live both within the city limits and outside the city, all around the lake area, people that have businesses that are affected by recreational uses, people with an interest in the integrity of the habitat that is going to be affected by the construction of the plant in addition to the threat to lake levels and the lake by the water that will be taken by the plant. But I know that we're here tonight to have the hearing that's required by chapter 26 of the parks and wildlife code, and I know you're aware that you have to make two determinations tonight, and they're included in the resolution that's been proposed to you. You have to determine that there's no reasonable and prudent alternative to the taking or use of parkland, and you have to determine that the project includes all reasonable planning to minimize harm to the land. I would start by noting that chapter 26 requires this kind of hearing and those determinations when there's going to be a taking or use of not only a part but of recreation area, wildlife refuge. I don't think it's disputed that the balcones canyon preserve wildlife refuge is going to be used or taken as well. I don't know why that wasn't included in this hearing. I don't know why there's piecemeal approach to it. There's no explanation for it. It's kind of consistent, though, with the kind of disjointed way that this has proceeded. I would also note that chapter 26 remembers that -- or provides that you may not approve any project that requires the use or taking of a park or wildlife refuge unless you make the determinations that are proposed for you to make. First question is, what is the project? I think everyone would understand that it's water treatment plant 4. It appears, though, that the project is being described tonight as merely that part of the shaft and the pipes that cross the parkland, not -- I guess that means I'm over. that is your time.

>> Thank you. [Applause] bill bunch? Pat broadknack? Okay. Sharon brown? Sharon brown? Not here? Christine shaw? Okay. Bill bunch has up to nine minutes.

>> Thank you mayor, members of council, I'm bill bunch with save our springs alliance, I have a powerpoint but also pass out a couple sheets of paper, front and back. The first sheets an outline addressing the legal standards of chapter 26 and making the case that you cannot tonight find with rational basis that there's no feasible and prudent alternatives to the taking or use of the parkland or that all reasonable measures have been taken to -- reasonable planning measures to minimize the harm to the park and preserveland. I want to add first an objection to the legal sufficiency of the notice. rowe was correct. Mr. young addressed it. The notice does not tell you in any way where this is or really what it is, how much parkland is needed. It doesn't mention any taking or use of land for wildlife purposes in addition to the park purposes. The statute very clearly requires you to address not just park taking but wildlife and preserve and scientific area taking of lands. So for multiple reasons the notice is legally insufficient tonight. It's premature because the studies haven't been done to even tell you what your mitigation and minimization is going to be, so how can you find out -- conclude tonight that all reasonable mitigation and minimization has taken place. Conversely, this -- this public hearing is too late and is a farce because you've already decided you're going to build this project, and you've stated that repeatedly. So that would be a violation as well, just as open meetings act violation, if you've already decided something before you arrived, is something that can be voided. Feasible and prudent alternatives. The neighbors are going to continue to tell you that there's a feasible and prudent alternative to building this tunnel without using the parkland in the way it's proposed to be used. I'll leave that to them. I want to talk about feasible and prudent alternatives to the overall project, the plan as a whole -- I'm not sure I know how to use this, but anyway -- this project is bad for business -- feasible and prudent, you know, is getting at, you know, can we save money, can we do something that makes more sense? We have the highest water and sewer bills as of your last, most recent rate increase of any

major city in texas. Mayor leffingwell was just quoted in the december 10 issue of in fact daily about how much he was concerned about affordability for austin enroll rates. He says, quote -- energy rates. He says, quote, we absolutely have to maintain affordability, not only as a moral duty to our customers but it relates directly to our survivability in the long-term. This plant will drive rates through the roof. Staff has already told you you've got four more years of rate increases coming your way. Where is the moral indignation about what this thing is going to cost? [Applause] -- to this community. The statesman reported yesterday, front page, 20% of our people are below the poverty level. Okay. Okay. Here's where we stand nationally. We're right at the top. If you look at the national cities' rates, and we're going up faster. Okay. Bad for business. Rates through the roof. Historic rate increase record. Every single year since 2004. Mayor leffingwell, you're getting upset about austin energy. They haven't raised rates in a decade and they're just talking about maybe they're going to have to raise them once. Okay. Ignoring your own approved goal of reducing per capita water use. We have a feasible alternative in conservation. Your staff has said repeatedly that this is the cheapest way to extend our water resources. 600 Million bucks. The staff keeps telling you the 508, it's really 600 million if you do their math and put the numbers together. The current total doesn't even include the second transmission main. They're lopping off pieces of the project so they can keep feeding you a price that's not, you know, escalating through the roof. Peak day demand is flat. We don't need this thing. Per capita peak day is going down. Your own numbers, I won't go through all, show we don't need additional treatment capacity till 2025 at the latest. Black & veatch, your own engineering firm for this tunnel, did this statewide -- national study of cities. It's not just happening in austin. Nationally water use is declining. Right here, this is a quote, general usage is declining while many utility costs debt service are fixed. Revenues are declining because sales are declining. Costs are going up. It makes no sense to add capacity when demand is going down. We are only getting 18% increment increase on your total existing treatment capacity. Does not diversify sources, does not improve water, does not make it rain or add water to our lakes. Does real damage to our community, social equity regresses to a false choice of business versus environment. This is something we should be agreeing on. This is bad for business. Forget about the environment. Having the highest rates in the land for decades to come is bad for business. Threatens 20-year conservation effort in balcones and canyonlands. Let's get to alternatives. Let me flip through here. Put this thing on ice. Your staff tells you you could put it on ice for 6 million bucks, okay? Your staff is also telling you you can save 14 million bucks every year you postpone it. So just a one-year postponement you're already ahead 8 million bucks. Postpone it two years you're ahead 22 million bucks. Alternative rate. Your staff has told you, we already replaced water treatment plant 4 capacity with the state's two water restrictions. This is their own report. Water overnight 20%, 44 mgd when the state's two restrictions kicked in 2009. That's 44 mgd of peak demand management for free. [Applause] I respect -- I respectfully submit that that's a feasible and prudent alternative. That goes on. You talked about risk. The risk is not having water. That's what triggered the state's two restrictions, not a limit on capacity. [Applause] throwing money at this plant is going to make us use and waste more water, not less. That puts us at much higher risk. That's not the water future we need. You're living in a world of 1984, not a climate change world where drought is going to become standard day-to-day restraints on our future. All alternatives, feasible and prudent. Upgrade our existing plants. We expanded llrich 67 mgd for less than 80 million bucks. Look at the comparison. We can expand davis both for a fraction of the cost of building this plant. Rebuild green on town lake. This is the other chart that you have on my do you mean that I handed you. Again -- on my document i handed you. Again, water utility's own numbers, they evaluated seven options to rebuild green at the same level, 50 mgd plant, cost ranged from 214 million to 330 million. We can build it on lady bird lake for hundreds of millions of dollars of less money. time has expired.

>> I'll leave it at that. You can't rationally conclude that there's no -- to the -- broad whaley? Mona mayday? [Applause] mona?

>> Howdy, you-all. not in the chamber. You have three minutes. Mona mayday. What is your name?

>> Okay. Richard pope donates his minutes so you have six.

>> Thank you very much. My name is roy whaley. I serve as the vice chair of the austin sierra club, and

I've been making a list here and I've checked it twice, and it looks like four of you are going to be naughty. [Laughter] and four of you will continue to be nice. But I'm going to go ahead with what I have to say anyway even though that's the way I expect it to turn out. Boy, howdy, what a bunch of great speakers we've had this evening. [Applause] right on. wheeler, i really appreciate what he had to say, and everyone, but I really would hate to be in your shoes when this deal all blows up, and i truly believe it's going to. Now then, I have a legal opinion here that we can't proceed with this anyway because you're already out of compliance with chapter 26, because when you recently voted to authorize the full 300 million, that put you out of compliance with the law that requires, in chapter 26, to show how all reasonable planning -- does not show how all reasonable planning to minimize harm to the land as a park recreation area, wildlife refuge resulting from the use or taking. That wasn't presented when you-all took that vote, so you're already out of compliance. There's no reason to go on. I love it, though. A certain extent, I know that I expect this vote to be 4-3, but it just builds the legal case that's going to come down on this. And so for every action that you-all take, it just makes it a little bit easier on our side, and so in the spirit of the holidays I say thank you for that. [Laughter] and we've had some great speakers. We've got some other good speakers. It's a long night. I know that all of you-all are wanting to get over to the armadillo christmas bizarre, pick up something nice for me for the holidays, and I appreciate that, so I'm not going to use my full time. Thank you very much. [Applause] thank you, roy.

>> There's always a possibility that just like the grinch, it's possible that one of you, your heart will grow three sizes today. And you will change your vote. [Cheering and applause] although I'm afraid three sizes still might not be enough. we gotcha. Philip kay? Philip kay? Okay. Greg dettman? All right. Roger dahlston? Roger dahlston? Okay. Dan pratt. All right. Philip, you have up to 12 minutes. [One moment, please, for]

>> so that would be an additional cost of four months, two, two and a half million dollars. A half a percent of the total project to insert the pipe from mcneil as opposed to from spicewood springs road. That's doable. As far as the grouting, now, we talked before about thousands of pounds of grout. In actuality we're talking about just from the spicewood springs road shaft site, not the total project, just from there, 20 million-pounds of dry mix portland cement. 20 Million-pounds. 500 Semis with 40,000-pound capacity will be required to truck that cement powder down there where it will be mixed in a batch plant on site and then used to make into a grout and shot into the shaft down into the tunnel. Again, this grout I was told had to be done from there. When I spoke to people from pgi, one of the largest grouting contractors in the united states, a company that is currently doing four jobs in austin right now that mwh is very familiar with. They've dealt with them before, recommended them highly. They're excellent. One of the best in the business. They said putting in a 15,000-foot run -- basically we're tng about a 15,000-foot run would mean we're talking about 30,000-foot tunnel from four points to mcneil reservoir. If we can only do 10, we have to use spicewood springs road. 10 From spice woods towards four point. 10 From pour points back towards spicewood. If you can do 15 you could do 15 from four points and 15 from mcneil reservoir, eliminating the spicewood springs road shaft. They said no problem. Cost? The same. They said no different cost. Per foot, of course. No different cost. And when I asked your contractors or your engineers, I should say, well, they really don't want to do that because it limits them to the number of contractors that could bid the job. Basically if they bid the job at 10,000 feet more contractors could bid f they do it at 15, fewer. That's sort of like we were going to bid trans atlantic, we were going to bid the first trans atlantic flight and we said who can fly this? And one airline said I can do it. And the other say well, no, we can't, so we decide, do you know what? Let's bid it definitely. Let's bid it halfway across the ocean. Who can do it? Everybody will hold up their hands. That's what we're doing here, we're going halfway across. Why can't we go for the best for the same price? They said -- the bidding country done in -- can be done in such a way to the bidding will be in the same price as the 10,000-foot contractors and you get the best who could do more and it would eliminate all of this, all of these problems for all of these months for all of these people and -- I'm sorry. And for all of these people who are having their lives possibly disrupted, not to mention the environmental possibilities. We haven't any clue as far as what's going to happen with the environment since again the studies aren't in. But -- excuse me. As far as viable alternatives, these are -- this is an alternative that is possible. Now, what is the only problem? The problem apparently is an extension of the time period. So we're talking about three, four, five, six, seven months. I don't know. A few months. Your engineers could work that out

better than i. But what is so important? Why is this six months so important? What is the big deal here? I remember quite a few years ago, I guess it was 1969 or 1970, I was in los angeles. And I was -- they were talking about an earthquake coming the next day. The earthquake was supposed to come on saturday. I guess I had some ha lewis in atory assistance and i decided it was time for me to leave, so I split that night. And I got as far as I guess it was somewhere in the palm springs desert and jumped on a freight and came east. And I remember the next day looking -- and los angeles was still there. I said wow, what's going on here? It was supposed to fall into the sea. So I guess the question is what is guiding you? Is it a religious epiphany or what? Why have you decide that had 2014 is the date the water will stop? Everybody has said it will probably do on, we'll probably have enough water for 10, 15, 20 years without additional capacity. But for some reason 2014 is this magical number that cannot be expended even six months, seven months, less than a year. This makes no sense. They're now sending their trucks down 620 from the excavation at the water treatment plant. And they're driving on the shoulders of the road. They've been cited numerous times for speeding. Ask anybody that lives out there. You can check the police records as far as how many citations have been given. It's very unsafe. We're talking about 18-wheelers loaded down to 72,000-pounds with loads speeding. And when they come down spicewood springs road, which is about as steep as this podium, they're going to go fast. The only time they'll be going slow will be going up the hill because it is so steep. Going across in front of canyon vista middle school, going all the way across this residential neighbo they will be speeding. Truckers get paid by the load. They get paid by the load. One load a day is one paycheck. Two loads a day is two paychecks. That's how they get paid. That's why you always see dump trucks speeding. They get paid by the load. It's true. And this is an unsafe situation. The mcneil reservoir is right at the termination point of 183 and mcneil drive. It right at a right-hand turn on to a large street right over there. It's right there on the corner in an industrial neighborhood with no residences. And instead you've chosen this area which is right in the heart of a residential neighborhood, right next to a park, right next to a creek. It makes absolutely no sense. And for the same price. The only difference would be an extension of time. A small extension of time. This does not change the route. The route we're talking about is the exact same route. I wanted to make that clear because there's been talk about a root change. The root is the same. The only difference is spicewood springs shaft does not have to be built. It does not have to be excavated. That would probably save a few million dollars right there, which could be applied toward any additional cost that you would need for coming in from the mcneil end. So these are the reasons why we're so aggravated. You did downsize from an excavation to a retrieval site, but a retrieval site still requires minimum 240 days of truckers bringing 40-foot by seven foot wide pipes down to spicewood springs road shaft site, inserting them into the ground. They'll be doing it all day long, so for 240 days, eight months at least, there will be construction activity, major construction activity with cranes pushing pipes into the ground. Workers digging whatever they have to do. And after that will be the grouting and the grouting as I said will be -- will require 500 semis, each loaded with 40,000-pounds of powder. That's an actual figure. 20 Million-pounds of cement powder will be required. I worked it out with your engineers. Will be required to put in at that site alone -- not for the whole project. That's for 10,000 feet from that site. If you did the 10,000 feet from that site. And the same grouting can be done by other contractors from mcneil at no additional cost per foot. So there is absolutely no reason financially to do this and there certainly is no reason as far as ecologically to do it this way. There is a reason to do it the other way. And for a safety factor. Just one child has to be killed on this project, just one from a speeding truck. And that is too high a cost. And that's not a cost that you will bear when you go through the neck neal rez -- mcneil reservoir part of it. It's right there on the highway. The truckers will actually be able to reach it much quicker. You actually will probably increase project time. You will lose some by doing the extended piping, but you will gain time by trucking traffic being in a much closer termination point. There is just no real reason to use spicewood springs road with mcneil so close. You would have had all of us off your backs all this time and we would have been very happy with you guys if you had done something like that as opposed to getting everybody so worked up. As was pointed owrks the only reason we're so worked up is we know what's going on. Most of the city is still in a daze. They're still appear pathetic. They'll find out when they start getting their water bills. That's what I ask you to do is please consider the neck neal reservoir as an alternative to spicewood springs road and don't build a shaft down there at all. Thank you.

[Applause]

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>> Mayor Leffingwell: Next speaker is bruce melton. Following him is mary melantok. Is marion here? Then after bruce will be phil batista. She is here? Okay. Go ahead.

>> Thank you, guys. My name is bruce melton. A professional engineer, environmental researcher, a critical environmental issue specialist. I focus on storm water, surface water, endangered species among other things. I should be telling you guys about climate change and how by 2050 -- and my work with climate change and about 2050 austin will see about as many 100 degrees days every year as the sonoran desert research station does, you know the place with the cactus. Since this project doesn't appear to take climate change into consideration I'm not going to tell you about that. I have found a connection. I have found one of these hidden, unknown karst features. It's connected to one of the geotechnical investigation board sites. Probably the one on bullick hollow. Wife been made aware after drinking water well that was contaminated with a drilling fluidlike material. Again, this is one of my specialty items, civil engineer, 27 years doing this kind of thing. Simultaneously with the drilling of the. Simultaneously with the drilling of the bore holes on bullick hollow. I brought this to staff's attention and had no follow-up. Contamination was quite obviously a drilling fluid. It created a very significantly owe make drinking water. You couldn't see your hand two inches beneath the surface of a five gallon bucket. The contaminations lasted for five months. This demonstrates even though drilling a bore for a coring, for a geotechnical investigation, is different from the drilling for a tunnel. It does show that there is a positive connection. These hidden karst features do exist. It's swiss cheese out there, even beneath the edwards. That's where all the springs come from, down in bull creek. There is a connection. There is the capacity to contaminate, proceeding without knowing what we're doing. Proceeding without investigating this very specific and very particular instance of contamination of a drinking water well. This well was between a thousand and 2,000 feet away from the projected tunnel it was quite some distance. Proceeding without following up on this kind of information is not appropriate. Questions?

[Applause]

>> Mayor Leffingwell: Next speaker is marion melatok. Following marion is phil batista.

>> Hi. I would just like to make a complaint to start with. Like when someone of us are here to talk about this, to have this be the last thing on the agenda and keep so many people out so late. I would really like to request that next time you're expecting a lot of us that you make it the first thing rather than the last thing.

[Applause] and I'm against water treatment number 4, the plant, because I don't want my water bill to go up and i don't want my tax money being spent on something that we don't need. I have a lawn that I love. I love seeing that green lawn, but if it's going to mean spending money on something like this, I would rather have no lawn whatsoever and I would rather put in complete xeriscaping. I would rather have the money spent to help the people who really need help in this city, people who are -- don't have food to put on their table, can't afford heat, can't afford air conditioning, can't afford furniture. I'd rather have those people be helped than have a treatment plant built that we don't need.

[Applause] I used to live over by the bull creek -- bull creek and I used to go hiking along the creek every single day. And I am very concerned to think about what will happen to that creek. You're going ahead with this project without environmental assessments and without environmental surveys, and to me this is putting the cart before the horse. I wouldn't like to see the creek get any further degraded than what it already is. This creek is not in extremely healthy shape to start with and I wouldn't like to see what could happen if it gets degraded anymore. And those are my main concerns. Thank you.

>> Mayor Leffingwell: Thank you.

>> I request that you vote against it want.

>> Mayor Leffingwell: Thank you. Phil bastita. Donating time, alexandra ba batista. I don't think we have an age limit. Angela ludoff.

>> Thank you. I don't intend to use the full time allotted. Happy to yield back. I just wanted to let you know today that, first of all, I am a resident on spicewood springs road. I live along spicewood springs road and bull creek runs in front of our house and our -- our house and our property for 150 feet. We swim and play in the creek. It's probably six feet or so in front of our house. I also live in a place where when the austin water utility's lift station failed and 440,000 gallons of raw sewage came down the creek in front of my house, it raised the level 15 feet in front of my house. A rather scary thing. I presented evidence to the parks and recreation board across the hall here about a month ago that demonstrated that a catastrophic failure, if you indeed drilled and put the shaft in place, a catastrophic failure of the water contained in the transmission main would be 9 or roughly 80 times the volume of water and the amount of water that was released at the lift station when that failed. That would wipe my house off the face of the map, I'm here to tell you. I guess let me tell you what I do. I have an engineering -- a bachelor's degree in engineering and I am an employee at dell computer corporation. Part of what I am responsible for is disaster this is something that I take very seriously when we talk about piercing the earth's core at a site that is upstream from where I live, especially having endured the september 6th discharge of 440,000 gallons of water. I'm here to ask you to not necessarily vote against water treatment plant 4, but if you're considering drilling for this transmission main and have a shaft that you're looking to put in the location that's proposed, I think there's been evidence that's been presented to you tonight that would hopefully persuade you to give it considerable thought and possibly use the drill-through method, which I think is quite a reasonable method if in fact we have to proceed with this. Mayor, I did receive a letter from you that -- in response to an e-mail that I sent to lamar smith. I spoke with congressman lloyd doggett's office, who is a landowner next to me. He owns 40 acres next to me. He expressed concern as well. Not lloyd himself, but his staff. It's something that I think we're all concerned about. And I don't have anything to add other than to ask you to please reconsider drilling this shaft and to -- to proceed to use the drill-through method. I yield back the balance of my time.

[Applause]

>> Mayor Leffingwell: Thank you. Craig nailer.

>> I hope this works. Last time I was here not everybody had seen bull creek. Well, if this picture comes on, it's a picture of bull creek less than a week after half a million gallons of human waste poured out. It still looks pretty good it's actually one of the most beautiful parks in austin. The road to hell is paved with good intentions. -- Good intentions. Sometime the matter of public opinion can be challenged head on. An indirect cannot be challenged head on. An indirect route must be devised to attack the problem from another angle. Bit by bit the obstacle can be whittled away. This tactic continues to degrade the environment in all the places where I have ever lived. And that includes places I have loved in austin, texas. So if water quality is in wait for development, assert your desire for clean water, but then allow development to slowly degrade water quality bit by bit until water quality is compromised. Once it happens by the time people become fully aware that the water of some favored creek is polluted, regulations controlling such pollution become unnecessary. Sound cynical? It is. But that is exactly what is happening here in austin. The results of that tactic are included in one arlgt that is used to support the idea that water must be gotten out of lake travis instead of lake austin because lake austin is now polluted. Austin is touted as a green city. As a musician I know the danger of believing your own hype. Many austinites that I have spoken with are unaware that the city of austin has one of the highest per capita use of water rates in the state. But I thought that austin was a green city is the usual comment. They have believed the hype so they no longer pay attention to the details. And some of those -- and some of those supporting this project are taking full advantage of that ignorance. We had a half million gallons of human waste still down bull creek this fall, one of my favorite places in austin. Why did this happen and what is being done to prevent this from ever happening again? And now you're telling me that it is okay to use the land under question to dig a big tunnel during a rainstorm could potentially bring even more contaminated water into bull creek. Are you trying to tell me that you do not believe that the

jollyville salamanderr is in fact not an endangered species and therefore does not deserve to be treated as such? Are you trying to tell me that drilling underneath the balance cons canyon land preserve will not in any way affect hydrology of the springs found there? Are you trying to tell me that building more water capacity in the face of increased droughts is more important than fixing our leaking pipes or reducing austin's per capita use of water?

[Applause] you have not convinced me that this project is necessary or prudent. It is most definitely not green. [Buzzer sounds] and in my opinion it is yet another way to chop the parts of austin that I love up bit by bit --

>> Mayor Leffingwell: Thank you, greg. Your time has expired. Thank you.

>> Mayor Leffingwell: Next speaker is colin clark. Colin clark. Following colin will be helen nooner.

>> Good evening, mayor and council. Colin clark, save our springs. Bill bunch mentioned that -- he didn't get through all of his slides, but he would like the slide show in as part of the hearing here. I was kind of looking forward to this hearing because I thought, well, at the chapter 26 hearing, the utility staff is going to have to tell us how there are no reasonable and prudent alternatives. And I was really looking forward to how on earth they were going to tell you with a straight face that there are no reasonable and prudent alternatives. And lo and behold they didn't do that. I was very surprised to see junie plumber give the description here. She's done a lot of great work for the city acquiring preserve land and it's certainly not her job to tell you that there are no reasonable and prudent alternatives. So the water utility has not made any case to you or the public that on this tract of land there are no reasonable and prudent alternatives. So are the four of you who are likely going to vote this -- vote for this, would y'all be comfortable testifying in a court that you felt confident there was no reasonable and prudent alternative when staff didn't bother briefing you on it? They didn't make a case to you? How are you going to make that determination? It doesn't make any sense. You know that there are reasonable alternatives. You know there are prudent alternatives that save ratepayers money, that don't require turning parkland into a mining operation. So again, we ask you to make a decision here in the best interest of the ratepayers, of the residents, of the wildlife and of our water and reject this change in use of our public parkland. Lastly, I would like -- most of the comments here are directed at the four of you, the water treatment plant four. But I do want to take a moment to single out and thank councilmember spelman, morrison and riley because there's a big --

[Applause] it's often not easy to break ranks from your colleagues and I think everyone who lives near the shaft, we really appreciate you willing to hang with us on this through vote after vote. This is your last meeting of the year. The neighbors aren't going away, the environmentalists we're going to keep pounding on this and we appreciate your support. I don't hold out much hope like roy does that one of you, your heart will grow three times bigger, but you haven't taken the vote yet. Thank you.

[Applause]

>> Mayor Leffingwell: Helen nooner. And following helen will be jacob primo. You're next.

>> I'm helen nooner and I've gone to the parks and recreation board, city council meetings, awu meetings, water boards. I've never gone to any of these things in my life, but this has brought me out and this is the first time I've spoken about any of this because I felt like I have to get the word out. This is going to be it now. My first question for y'all is why rush this? What is the point of rushing this? Phillip kay had excellent alternatives. Told you how you can do it differently. And he had also spoke about how the engineers had talked to -- he said yes, we can change it, but there's something in the city about not allowing the law to be changed. What is that? If you did it would save the environment, save houses, no dust. It would save bull creek. It would save people's houses. It would save so much. And my other question is basically to the mayor and the three people who are -- the councilmembers who are always voting for this. Do not listen to your voters -- do you not listen to your voters? Do you not listen to the people of austin? I have not heard of anybody before this except awu. Do you truly care about austin

and what's going to happen to the future? Or do you just care about the development? That's all I have to say.

[Applause]

>> Mayor Leffingwell: (Indiscernible). Following jacob will be austin kesler.

>> Hello, my name is jacob primo. I'm not from the neighborhood or an environmental group, I just picked up this news story several months ago or many months ago when it first started and have been coming to meetings occasionally to see what's been happening. I would like to first address the people that came, especially from the neighborhood. Several months ago at the other meetings they would start by saying, wow, you know, I never expected to be on the same side as environmentalists. The idea being those cooks, those people that get in other people's business because they have nothing better to do. And I hope that after this you will all see that being a good citizen involves keeping your eyes open and getting involved in other people's business, yeah, because you all have to be together. What if all the people in austin that don't know about this did know about this and showed up to support it for you guys? That would be something.

[Applause]

>> anyway, I'm obviously against this as it stands. I have heard no evidence or argument to make me think that I should support this pipeline or the water plant in general. That is certainly part of the problem and part of the reason that many people have gotten up today and said they don't have faith in the government and in the council and their representatives because they don't hear any discussion, they don't hear any arrest articulate sort of argument to go forward with this. They only hear the vote to go on. And that makes people lose faith. But -- regardless of how you go, I hope you give some reasons as to why you're doing it. As it stands with the hurry and all, I can only imagine that there's secret buried pirate treasure underneath bull creek or the f 1 track you really like is going to take a lot more water. Anyway, that's all I have to say. Thank you.

[Applause]

>> Mayor Leffingwell: Austin kesler. Following austin will be kenneth rippergasuler.

>> Good evening, mayor and council. Pleasure to be here, i think. My name is austin kesler. I'm a resident of the mountain neighborhood off of spicewood springs road. There have been lots of really great speakers tonight. I hardly know where to start. I think most of the points have been made, but I want to reiterate a couple of things. Like an earlier speaker, i don't know whether sometimes to laugh or to cry, but I'm actually more inclined to cry. There are a whole lot -- a slew of very legitimate questions that have been raised tonight and I haven't heard anything from the austin water utility or from the questions -- nobody has questioned or answered these questions. A great many of us who would be most affected by this project didn't learn about the project until it was practically a done deal. We learned about public hearings at the very last minute. The public hearings were held off site. Land that could not be developed by joe wheeler, the neighborhood was up in arms about various proposals early on. Joe wholer was prevented from doing things with his land because of the environmental sensitivity and because of the proximity to residential neighborhoods. He then sold the land to the city as a parkland, and now we're talking about doing this outrageous project on this very small piece of land in an environmentally sensitive area. Nobody in the neighborhood supports this. There are alternatives. Alternative plans have been developed, they've been discussed. They haven't been evaluated. Nobody has commented on them. Nobody has said, oh, your alternative won't work because of xyz. There's all this big silence about what's going on. Several people have asked what's the rush? Why after having discuss this had proposal for so long are we now in such a big hurry to do it before a lot of questions have been answered and before the studies have been done? Why are the concerns of residents being ignored? We have concerns about safety, the huge heavily loaded trucks on busy streets going through residential areas. And everyone has mentioned about the likelihood of people being killed or injured on

this. We're talking about noise in a residential area. Are funds being set aside for foundation dj to homes, foundations that might be damaged as a result of dynamiting and blasting in that area. What's wrong with exploring again the possibility of cooperating with leander, cedar park and round rock to get whatever water additional the city of austin might need? Once a species is extinct or habitat has been destroyed it can't be brought back. We have all these environmental questions that haven't been addressed. And I think most importantly -- [buzzer sounds] -- if this project is so important and must be done in this way at this time, explain the situation, tell us what the rationale is.

>> Mayor Leffingwell: Thank you, austin.

>> Why do we have to go ahead with this?

>> Mayor Leffingwell: Next speaker is kenneth (indiscernible). Following kenneth will be guy leblanc.

>> Thank you. You know, if I reflect back on the discussions that precede this had one, there was a lot of love and we had some 7-0 votes and that's because thoughtfulness was respected and taken advantage of, and I think good, intelligent things clearly they may be less weighty matters. I was going to come 'up and talk about my tracking of the planning process. I've been involved in that. I found it really interesting. I found it especially interesting that when participants were surveyed they found that option d was the best option that after the educational process they'd been through, that really directs growth along i-35 and suggested there are maybe other approaches that may be more appropriate for providing water. What I want to talk about having watched this, the preponderance of evidence is there, so the question is for those of you who have managed to listen to this unfold over the last four or five months it gets increasingly obvious that emperor has no clothes. I said that you have a fiduciary duty to the community, you as individual councilmembers. As of tonight, it's going to be really hard to go forward and say, well, I really see a bigger picture and it's going to work. It's not going to work the way it's laid out tonight, at least a delay is required to address some of the shortcomings in the presentation. If you go forward you're just asking for a beating legally speaking. Don't do that. Get off that bus. Whatever it is that's carried you this far, take a step back. It doesn't mean you lose. It's great to be a strong believer and have great reasons for this project, but taking a step back tonight is not selling all that out. But going forward I think is really closing the door. So the evidence is there tonight.

[Applause]

>> Mayor Leffingwell: Guy leblanc. Following guy is claire berry.

>> My name is guy. I've been a business owner here in austin for 27 years. I'm here to oppose any further construction or taxpayer dollars be spent for water treatment plant 4. I sat on a city board for seven years. And one thing I really didn't like were people that had a very tiny bit of knowledge about a subject coming forth as full blown experts on something. Well, I'm not a water expert. I don't play one on tv. And I'm not going to act like one tonight. You have heard from a lot of experts, not just tonight, but many times on this subject. These people are very knowledgeable and they've given you many reasons to oppose going forward with this. Significant doubt has been raised about the wisdom of this. The city's own numbers on water conservation show that it's a viable alternative to this. One of the things that has always bothered me in the 30 years that I've lived here in austin is just the sickening waste of water that occurs in this city. If we had severe water restrictions on a year-round basis we could significantly postpone or possibly even eliminate the need for this treatment plant. I'd like to publicly thank councilmember spelman, morrison and riley for opposing this water treatment plant. I would like to ask the mayor, the mayor pro tem, councilmember shade and councilmember cole to please reconsider your positions on this. And please join your colleagues in opposing this water treatment plant. Thank you.

>> Mayor Leffingwell: Claire berry. Claire is not in the chamber? Sarah foust. Following sarah will be roger baker.

>> Good evening, thanks. My name is sarah foust. I have the pleasure of serving on the water and wastewater commission, but I'm here speaking on my own tonight. I want to say first i support the neighbors and all the testimony they've given so much. These people have provided so many hundreds and thousands of billable hours in consultancy to you guys on this project. It's amazing. It's thorough, it's well researched and it's really goodin tensioned, all of the information that they've provided and I encourage you to take advantage of it. I've also come to believe through listening to them over the past few months they really are concerned about the natural environment in the area and integrity of this process that we're going through. The question tonight in the hearing is whether or not there's a feasible and prudent alternative to taking the parkland. The answer is yes, there is. Based on the evidence tonight, there is a myriad of alternatives to taking the parkland. The most important alternative is to stop building the transmission main through the balance cons canyon land preserve. Shelf the plant, stop planning the transmission main and bring forward to the water conservation plan that was supposed to be presented this morning.

[Applause] once we gig out how long we can put off the plant, we can figure out how to protect rather than mine the balcones canyon land preserve. That alternative honors the treasurer, the time and the braveness of this community in putting together that preserve. Rather than mining it with an industrial project. The alternative also invests in our future with high-tech and innovative water conservation. I was listening to the meeting this morning and you were talking about entrepreneurs technology incue boughter. Put those people with the water conservation department and let's really build that as an industry from the city of austin. There was an article in the newspaper the other day about how kb homes will be building a subdivision with 20% more water efficient homes. Water conservation is running away despite what we're doing, and we can get on board and put some real money towards that and buy some time and seek to really protect our preserve and honor it. I don't believe that all the time and all the money that's been spent on that preserve was on the basis it that it was a preserve of the surface and only and that it's safe and okay to mine through really sensitive karst.

[Applause] I think we all understand that if we have more time on this, there are plenty of feasible and prudent alternatives. Again, I encourage you to take advantage of the really thorough research and excellent consultancy you've gotten tonight. Thank you.

[Applause]

>> Mayor Leffingwell: Roger baker. Following roger will be patrice sullivan.

>> Well, I can only say that I've heard a ton of good reasons not to support this project tonight. You know, when you see such weak justification for moving ahead and not looking at all the alternatives and environmental considerations, you can only suspect that there must be a bunch of special interest politics behind the scenes that are pushing it. And I believe that this is going to raise our water rates. You know, I think we need to start thinking like san antonio and start thinking conservation and we could not do this and look at the alternatives and look at what conservation can do and help out the taxpayers a lot. So the decision is yours. I hope you vote against it. Thank you.

[Applause]

>> Mayor Leffingwell: Patrice sullivan.

>> I haven't been here since this new council chamber went up. This was a long time ago. I normally don't come down here to council and talk to you because I trust that you're going to do the right thing usually. I feel very lucky living in austin that I feel like people elect really good people. They pay attention more than other places. And I don't have to do anything for my representative in congress because lloyd always does the right thing. So I get to be lazy about that. So tonight I'm not being lazy. I'm coming down here and learning about this and I'm here to represent what must be many, many hundreds of thousands people who have no idea about this because I do pay attention -- even though I don't come down here very often, I do pay attention and I haven't heard hardly anything until I came

down here tonight. And I have well over a thousand friends, which is way too many friends, and I am very sure that a couple hundred of them would be here tonight if they knew the facts about what was going on. Only one friend of mine here and she left because it was long. So those of you who are the for. I'm not sure who you are. Now I know who you are. Hi. Thank you to the three of you who have been holding out, and I know it takes a lot to stick with it, stick with your guns. And the four of you who I know have your own reasons, and I'm sure many of them are very good reasons, in the face of what's tonight can you really, really vote again to move forward with so many obvious problems just waiting to happen? Yeah, that's it. Thanks. Please vote your conscience tonight.

[Applause]

>> Mayor Leffingwell: Those, all of the speakers that have signed up wishing to speak. A number of speakers have signed up for and against not wishing to speak and the clerk will enter those names into the record. So council, the floor is open for a motion or discussion. Martinez: I will make a motion, but I would like to talk about the number used for mitigation. And so what I would like to consider is a higher mitigation fee and, I don't want to ask the utility if they would be amenable to that or if they could add any additional information. The question is are we amenable to a higher fee?

>> Martinez: Yes. Are we bound by the formula that was used in the number in the resolution or can this body have a different number for mitigation.

>> We'll follow the will of the council. We used that formula as a basic kind of consistency starting point, but ultimately it's the council's decision.

>> Martinez: With that being said, mayor, would -- I guess we have to amend the resolution that's posted?

>> Mayor Leffingwell: No.

>> Martinez: I would make a motion to approve the resolution, but making the mitigation fee \$500,000 instead of the 277 that was derived from the formula.

>> Mayor Leffingwell: Motion by the mayor pro tem to close the public hearing and approve item number 98 with the change to the mitigation to \$500,000 instead of \$272,653.47. Is there a second? I will second. Is there further discussion? Councilmember Riley.

>> Riley: Well, on that subject, I have heard through various reports that \$500,000 would get us an easement on the park for a trail. I'm not sure exactly where that started or how that number is, but anybody from parks or anyone else shed any light on that issue and give us any indication of where that number came from?

>> I'm not sure where that number came from. We bought this land in that area for \$530,000. That acquisition was talked about and the number came from there. It was not a number I prepared or put together.

>> Mayor Leffingwell: Is that your question?

>> Riley: I would like to ask a couple other questions about some other issues that were raised. I know the hour is late and I won't take too long with this, but I have a couple of questions that I thought were -- merited some kind of answer. And one is -- in particular there was a speaker early on who presented a drawing of the proposed site and was questioning how -- the drawing I think was -- showed a site somewhat less than an acre and the idea is that you all would actually be required to work on a much smaller site, something significantly smaller than the drawing was shown. Do we have an idea of exactly how the construction on this site will be squeezed into the area that is available?

>> Yes. Ultimately the contractor will decide where they place the crane and other kind of items. We

don't prescribe the method of work. Although how they ingress to the roadways. We have various alternatives for how we would work on that site and feel very comfortable that particularly given that we've made that more of -- instead of a working site, a grouting and pipe installation, it requires less space and we could make that work without any problem.

>> Riley: And I do think that we ought to give some discussion to some of the safety issues that have come up. I think my colleagues may be asking further about that. I wanted to ask a very basic question about the standards that were expected to reply related to reasonable -- one issue that has come up is, is there a way we could avoid this particular use of parkland? For instance by using that site as simply a ventilation shaft as opposed to an access shaft that would be more actively used and would be more intrusive on the neighborhood? Is there a feasible and prudent alternative that would entail some shaft -- some use of that site that would be less intrusive, such as strictly a ventilation shaft?

>> Councilmember, I can't comment on the legal standard of what that means. I can just describe to you what we've done and how we've arrived at this recommendation to you today. The utility with our project engineering staff, our consulting engineers, evaluated a wide range of alternatives to construct this tunnel. They included routes that would take us around a long way like 620, 183. They included routes through the prescribed bcp corridors that were set up when the bccp was created for this transmission main. And after all that analysis, we recommended that this route was the best route for achieving all the objectives of the project and that this shaft site was the best shaft site after evaluating many, many different shaft site alternatives that this was the big configuration. We did go on to do some additional work to change the use of the shaft site from a -- shaft site from a full working shaft site where we could excavate all the material to a shaft site where we shifted the excavation work up to the reservoir shaft site that. Allowed us to drop the construction traffic from an estimated 12,000 trucks to 800 or less. It was about a 90 percent or more reduction, as well as reduced number of hard construction days from a thousand to 400. One of those evaluations did include looking at just ventilation and grouting at the shaft site, which would eliminate the pipe installation phase of this project as well as the removal of the boring machines. That particular location had several distinct disadvantages. One we estimated the total cost of that to be at least \$10 million more and that would only reduce truck traffic on spicewood springs road by a total of 250 trucks over the life of the project. That works out to about \$40,000 per truck reduced. We thought that was a steep price. In addition, by removing the ability to install pipe here, all pipe installation would happen at the far ends of the tunnel, particularly on this end it would be where the reservoir was. That raises a considerable constructible concerns. In essence we would be asking construction workers to drag a steel pipe through miles of the tunnel to the installation spots. And while it's certainly not something that is impossible, it certainly places operational and constructability concerns that we had. And for those reasons the cost as well as construction

Be -- and that many of the items -- I said at the many of the items on this are going to be things that we'll need to take up with different departments. But certainly the majority of the things on the list are going to be directly related to the construction site. So can you talk to me -- us about the process that you typically go through?

>> Larry laws, project manager for mwh constructors. And in a nutshell, you're exactly spot on. We would sit down with representatives from the neighborhood and with our construction folks and work through the exact details that were described by sort of making a list as mormon was mentioning, and those are typical things that we do address. Sound mitigation where the trucks are going to go, how traffic is going to come in and out of there, what we're going to do with parking, all of those kinds of issues. What I would typically try to do is to get a memorandum of understanding in advance before you actually go into the construction bidding phase so that all the contractors know exactly what the ground rules are and where you know what to expect and would be able to price in that in their competitive bids.

[One moment, please, for change in captioners]

>> can you remind everybody what the sequence is? It's -- you know, it's -- it's 400 -- well, it's -- you have a -- a period where you're doing construction, you stop, you start again. Can you remind

everybody how that works? How that's contemplated?

>> There's a definite sequence, alternative 2, which is the recommended option. You would be boring or doing the mining out of jollyville towards the a.r.d. site. There would be a period of time where you would think the -- the shaft, in time to meet the boring machine as it comes towards the pard site. It would be retrieved there, then relocated to the other end of the project. Meanwhile there will be another tunnel boring machine coming from the four points area towards pard. And would be retrieved at a different point in time when it reached the pard site. After that's finished, there would be some installation of pipe from all four of those shaft locations. That's the most efficient way to get finished with the project quickly and get finished with the disruption to all parts of the project site. Then the last phase would be grouting. And that would typically go in from e those four locations as that's the most efficient way to get in and out thereof as welling. One of the speakers mentioned about how many trucks that would be, so forth. It really works out to be about one to two trucks a day.

[00:03:33]

>> Shade: Just because i know it's really frustrating for people who come and who have been maybe here for one or two of the discussions, not all of the discussions, I would like to just -- hard to go into all because it's been going on for so many years. The debate today those those that think alternatives haven't been reviewed. I have been directly involved with the alternatives that have been looked at. I believe that the project is significantly better than it was initially contemplated because of kind of work that they talked about. Sometimes you have to get into the project to be able to understand those, you know, the differences, the different ways that you can approach it. I think that the list that all of us have made reference to in the way you describe this project is something that we can easily incorporate into the resolution that's in front of us right now to officially codify or for the record make it clearer that we expect that process, which you again said is the typical process that you go through, but to be part of it. I think a friendly amendment that I would hope would be to say that the --

>> Mayor Leffingwell: Councilmember, i respectfully suggest that that be in the form of a -- additional direction to the motion and not as --

>> part of the resolution.

>> Shade: Okay. I will do it as that then. And -- and I have said this before, but I do want to reiterate again to the neighbors that nine stay deeply involved -- to stay deeply involved in that part of the process. I know that you have heard only one side of this because that's the neighbors who show up. I have spent considerable time trying to reach out to people whoe in the neighborhood, at the school, who have not been involved to really get a sense for what are the issues. Just like you have gone around and picked up business cards and talked to people. I assure you that I have been doing that, too. It's hard to get an accurate picture when all that you see is who is here tonight. I also want to remind folks that again I think that the -- that the purpose of this discussion is really about that particular piece of land and not about whether or not we are going to do the water treatment plant, because the water treatment plant 4 policy discussion is a separate one. To those of you who think there hasn't been enough of a case made. I do want to remind you that we did have a very long town hall meeting in the fall. There has been a lot of discussion, that's not what tonight is about. That's why for those of you that wanted more discussion on that, I'm sorry we're not providing that. I heard your point.

[00:06:13]

>> Mayor Leffingwell: One clarification on the 00 00, that's on truck traffic.

>> That's my understanding. Truck traffic. Coming in and out of the site.

>>> There can be additional work outside of those hours. I would reiterate what councilmember shade said. This discussion is not about water treatment plant 4. That's a separate discussion. It has been had many times over the last over two years now, I think. In fact, over the last 25 years as many of you know this plant was approved by voters 25 years ago. And it's taken that amount of time to get to the point that we are now. So if -- if there's some case where you think that we haven't directly responded to your arguments or concerns, the fact is that we have responded to all of those arguments and concerns for quite a long period of time. So -- so again, it's not about water plant 4. This hearing bus the use of a piece of -- is about the use of a piece of public parkland to facilitate this particular transmission line and if this hearing I think is really about -- not billion another transition line. It's -- it's do you want this transmission line, which requires this particular shaft at this location or another alternative which would cost ratepayers millions of dollars more. So -- that I'm aware of. That's why I'm supporting this. I do not believe there is a feasible alternative. Councilmember cole?

>> Cole: I am concerned that we haven't spent enough time really analyzing the science behind the recommendation of the parks board, which was in excess of a million dollars. And the recommendation of the water utility. And the amount that we have put on the table for the mitigation sum. And I think that the way that I would like to handle that is not to give -- to at least make a friendly amendment to the motion that we will award mitigation damages of at least \$500,000 and then ask the water utility staff and the parks staff to come to audit and finance and make a presentation so we can just give our hands around those numbers a little more and if we need to change those numbers at council we can do that and do that into the future as the construction processes. So t was a friendly amendment.

[00:09:04]

>> Mayor Leffingwell: I'm not sure that I understand the friendly amendment. The friendly amendment is still for \$500,000.

>> At least. At least \$500,000.

>> Mayor Leffingwell: You want to give direction to look at it again --

>> Cole: Well, the resolution will pass with at least 500,000. And then staff will make presentations to audit and finance about the sums that they have recommended. And if we determine that there should be any changes, we will make a recommendation to council that there should be an additional mitigation sum of 200,000 or whatever or it should be reduced 200,000. But at least we'll have the opportunity to hear the science and delve in a little bit more detail into the extent that the parks board wants to come and testify about that.

>> Mayor Leffingwell: Okay. I think that I understand. I want to clarify that you are not suggesting that this hearing be reopened. You are just suggesting a discussion might take place in the future about additional mitigation money.

>> Cole: Exactly.

>> Mayor Leffingwell: All right. Mayor pro tem? Yes, okay. That's fine. Further discussion?

>> Cole: Well, mayor, let me ask legal that question now that you have put it. I want to make sure that we are able to have like an item from council increasing the sum of the park mitigation or decreasing the sum of the park mitigation if we receive a recommendation from a subcommittee about that, without reopening the public hearing or -- that would just be a minor amendment to the resolution.

>> [Indiscernible]

>> prepared to address that question are present right now. I will ask one to step forward and address that for you. : I was going to aa point of clarification, the friendly amendment was up to.

>> Cole: No decrease, only an increase.

>> Shade: Okay. Well --

>> Cole: Did you understand that, brent?

>> Yes, we did. It's definitely a little bit novel, but we see no problem with it. It makes sense, I think it was clearly stated on the rerd.

>> Cole: Okay.

>> Mayor Leffingwell: Councilmember morrison?

>> A couple of legal issues were raised about the folks testifying and I just wanted to run those by the -- our legal staff, also. One raised the question about the adequacy of the description of the notice. And I wondered if our legal staff could comment on that.

>> I can say, councilmember, that we reviewed the notice within the legal department prior to the posting and we're confident that the -- this item was properly noticed and posted to enable the council to hold the hearing and conduct the business under the resolution as posted.

[00:12:10]

>> Morrison: Specifically the question was whether there was adequate location information. So you are saying that --

>> in the newspaper publication, I will say that I had not read that article and couldn't make it out when it was on the screen. But the -- we're confident that we are properly posted for this item and can conduct the business that we're intending to conduct under the item.

>> Morrison: Then the other legal issue I heard raised, I would like you to comment on, was the concept that because this council approved the funding for this project prior to actually hearing and doing the chapter 26 hearing and decision tonight, that that -- that suggested that we hadn't looked at all reasonable planning alternatives.

>> My observation on that, councilmember, is is that the -- the previous action by the council was not germane to the issue that you are considering this evening, so that prior council actions were not premature in terms of the issue that you are considering now in the easement. And the chapter 26 hearing. Anything further about the sort of the status of tonight's action would probably depend upon requirements and the procedures for these chapter 26 hearings. And if you have other specific questions about that, my colleagues in the legal department who are more conversant on that are prepared to answer those questions for you.

>> Morrison: Okay, thank you. I do want to say that i appreciate the staff or the commitment with this motion to address these -- all of these questions that were raised or all of the issues that were raised and -- and in asking for a memorandum of understanding. Certainly it would have been more comfortable and probably in my opinion more appropriate to actually work through that before this hearing today. No surprise to anybody I'm not going to support this motion, but I do appreciate the work

on that -- those conditions and the extra attention to adequate mitigation fees because I do think that that's appropriate. On the other hand I'm very, very concerned about the process that got us here, the parks board, the water utility, not having adequate information for them to do the work that they felt needed to be done to make a recommendation to us. I think that's a flag that says that we've got things a little bit out of order. I do think all of the serious concerns that are being raised by the folks that live nearby take them completely to heart and I -- I agree with the -- with the speaker who said that we do have a feasible alternative and that is pretty simply let's just water our lawns once a week when it's really hot.

[00:15:09]

[Applause]

>> Mayor Leffingwell: Just to follow up on that, then you are next councilmember spelman. But just for the record, the water and wastewater commission did not make a recommendation on this chapter 26 item. And they were not presented with the item and it's not within their purview. Second, the parks board had not one but two opportunities, it was presented to the parks board, they made the decision not to make a recommendation. So, councilmember spelman?

>> Morrison: Mayor, if you don't mind, just a follow-up on that.

>> Mayor Leffingwell: Yes.

>> Morrison: The parks board did ask explicitly for information. It wasn't that they decided not to make a recommendation.

[Applause]

>> Mayor Leffingwell: Well, that's true. They -- they decided not to make a recommendation based on the non-availability of some information they requested. But it was their decision not to make the recommendation. Councilmember spelman?

>> Spelman: It's late, I'm tired and I must have missed it. But I believe that councilmember shade asked the question when construction was going to start on the pard shaft and I must have missed the answer. lazarus can you shed some light or are there other gateways we have to go through before you start construction.

>> We haven't completed the design of the project. We have to complete the design, that would take through the spring, bidding would likely start in the late spring and, you know, bidding and award and that kind of thing takes several months, then mobilization, so construction would not occur until the fall at the earliest of 2011.

>> Spelman: Okay so fall of 2011 would be when construction would actually start. Do we have to let a contract to somebody to actually do the construction, too.

>> Ye.

>> Spelman: When can we expect to see that contract.

>> On the street for bidding?

>> Spelman: Again, when will it be before the city council for all of these people to come back here and parade us all over again.

>> It would fall under the authorization the 359 million-dollar authorization, so it would not come through as a separate approval of the council.

>> Spelman: I see. So the city council has already approved that contract, whatever happens. Sometime in the fall then construction would actually begin. I believe the other fella from the water utility said there would be some activity, there would be a hiatus and then a lot of activity southed with the grouting and the filling. Can you give us a sense from how long from fall 2011 how long construction will go on?

[00:18:01]

>> I really will probably have Larry come up from mwh, he's more versed in the specificity of some of those.

>> Larry says, mwh. It would be approximately 30 months.

>> Spelman: Two and a half years starting in the fall of 2011.

>> That would be -- that's correct.

>> But not continuous.

>> This would be -- out of this particular site it would be construction, a break, construction again, so for 30 months or roughly 900 days, there would be the site would be encumbered in some way.

>> Spelman: How long is that break in the middle going to be?

>> I don't have the schedule in front of me. But -- but there will be a 30 month schedule with different phases, step one would be mobilization, shaft sinking, roughly two months. I would have to get the exact schedule and then show you. There would be a break in between and then there would be a period of about the -- a year or so for putting pipe and grouting in the ground. That would be the longest continuous stretch of construction activity.

>> Spelman: Okay. One way or another, start in this the fall for the next two and a half years after that, there's going to be activity at this site.

>> Yes, sir.

>> Spelman: Okay. The big action most of those trucks are going to be associated with the grouting, that's going to be towards the end of that period, am I right?

>> Towards the end.

>> Spring 2014 a whole lot of trucks wandering up and down Spicewood Springs. I just wanted to get a sense of when this thing is actually going to start. I think this question is lying open especially the people living close by that are going to be affected by those trucks and activity we have a right to know when that's going to happen.

>> The first period of activity would be coming Judge Jollyville towards Pard, that would be roughly 110 days or so. Then we would sink the shaft at Pard, that would take about two months or so. And then there would be a break in the activity. There would be the retrieval of the two machines. Which would be a very short burst of activity, when the tunnel boring machine actually shows up and is extracted from the hole. The biggest chunk of activity would be let's see about six months or so later and that would be

in -- in about the -- about the midpoint of the whole 30 month period. And then there would be a stretch of about a year's worth of activity, again one or two trucks a day, bringing pipe in, threading that down in, and the pipe installation and grouting. So that would be towards the back half of that period.

>> Spelman: Thank you, i appreciate your being forthcoming and actually having that schedule out for us.

[00:21:09]

>> Mayor Leffingwell: Anything else? All in favor of the motion say aye.

>> Aye.

>> Opposed say no.

>> No.

>> Passes on a vote of 4-3, councilmember riley, morrison and spelman voting no. So those are all of the items we have on our agenda, without objection we stand