

# Closed Caption Log, Council Meeting, 04/07/11

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Cad,. Theoguard teague . good morning. Good morning, I am austin mayor, lee leffingwell, and will begin today with deacon ed woolery-price, all saints episcopal church. Please rise.

Mayor, I would like to offer three prayers, one for rain.

It looks like you are getting your wish there.

Carl ashley was a person and I would like to paraphrase, all of the affairs the state deems is great but in texas you can't beat a slow two-inch rain and the other prayer is for our men and women in the armed sources and the last and longest prayer is for the city council. Good morning, mayor lee, council members, I am deacon ed woolery-price, episcopal church at all saints on u.t. Campus. The lord be with you. Let us pray. Prayer for rain. Oh, god, heavenly father, who buy the son jesus christ has promised to all those thigh king tom and righteousness, seem thee in time of need, moderate rain and showers so we shall seek the fruits of the earth through our comfort and honor, through jesus christ our lord, amen and for those in armed forces of our country, mighty god we commend to you your gracious care and keeping all of the men and women of our armed forces at home and abroad, defend them by day with your heavenly grace. Strengthen them in their trials and temptations. Give them courage to face the perils which beset them and grant them a sense of your body and presence, wherever they may be through jesus christ our lord, amen.

Amen.

Our city council and mayor, mayor pro tem, almighty god who has made and preserved the city of austin, continue to guide its mayor, mayor pro tem and city council members who have a complexity of service and governance. Equip each of them with a spirit of cooperation that brings honor to your name and lead them in their dedication of service and that they remember always the less fortunate in our community. And we pray merciful lord god in living out their days that our mayor, mayor pro tem and city council members faith in you and your son jesus christ replaces fear. That truth conquers falsehood, that justice triumphs over greed, that love prevails over discord, and that your peace, lord, that passes all understanding will abide with each of them and all of the citizens of austin. And may we each -- may each member of this council experience the constancy of your presence. And in conclusion, we give thanks and praise to you, father, god for your son, jesus christ, who showed us the way. Amen.

Mayor leffingwell: amen. Thank you, deacon ed. Please be seated.

Thank you, sir. the quorum is present so I will call to order this meeting of the austin city council. On thursday, april 7 2011, at 10:10 a.m. We are meeting in the council chambers, austin city hall 301 west second street, austin, texas. I will begin with the changes and corrections to today's agenda. The first change is item number 60, it is postponed until april 21st, 2011. Time certain items for day, 30, a staff presentation regarding an economic development proposal to create an economic development program for e bay incorporated. At 12 noon we have our general citizens communications. , our zoning , public hearings. 30, live music and proclamations and the musician for today will be supplied by the austin lyric opera. So, the consent item -- items for today are items 1-71, with exceptions, which I will a

read into the record in just a moment, but first, I want to read into the record, it remains on the consent agenda but thyme number 63 is our boards commission nominations and waivers. To the library commission, peggy plea pleasant as is council member riley's nominee. Following items pulled off the consent agenda, items 13, 14 are off the consent agenda by a brief presentation by law. Item number 10 is pulled by myself, mayor lee leffingwell, item number 65, pulled off consent by council member spelman. Number 17 is pulled off by council member morrison. The following items are pulled off consent agenda due to a number of speakers signed up, items number 2 and items number 3. Are there any other additional items that council members want to pull off the consent agenda? Okay. Thank you. And correction to item -- i said items number 13 are pulled off for a presentation. Only item 13 will be pulled for the presentation. Item number 14 will be heard after executive session. Any other items, council members? In that case, we have one -- we have one speaker signed up on item 64, so we will hear that speaker before we have a motion on the consent agenda. Suzanne santos, welcome. You have three minutes.

Good morning mayor and council members. I represent the sustainable food center and we run farmers markets all across the city and I really am in favor of this ordinance change. Primarily because our mission is to cultivate a healthy community by strengthening the local food system and encouraging access to local affordable nutritious food, and this ordinance helps us do that, in two parts. One is by lowering the level of cost barrier for food producers, primarily farmers, in eliminating some of the duplicate fees for duplicate applications, we are very much in favor of that, and secondly, because of the ability to go out and do more educational cooking demos at underserved areas, primarily for our neighborhood market, that definitely need more cking experience and have our trained volunteers to do that. We are are grateful for this waiver of fees. So with that said, I do have a question about clarification. And that would be to -- within the ordinance, it says issuance of four temporary -- special event temporary food permits at certified farm ors markets for the city of austin, four permits issued per year and I want to be assured that that means that within a permit that you get, you can get 14 weeks of cooking demo per metes, so, many in effect, you can get 52 weeks of permits that will allow you to do cooking demos all week long. If you so chose for the educational purposes at certified farmers market and have the waiver.

Mayor leffingwell: Council member morrison.

Morrison: Thank you, i wonder if we can have staff come up and help us clarify and state for the record whether this this understanding is, in fact, correct.

Good morning, kathy childs from the law department. Under ordinance 210, 1028-046 we created a single special event, temporary food establishment permit. Each one is good for 14 consecutive weeks, basically quarterly, so with this waiver of four of them, in effect we are waiving an annual fee, four of those.

Morrison: Okay. Great, so, in fact, what you said -- your understanding is consistent with that statement. Okay, so it stays on consent, right?

Mayor leffingwell: Right. So in addition to item -- additional items pulled off the consent item are number 25, 26, 27, because they are related to item 2, which has already been pulled off, so anyone need clarification on items pulled off the consent agenda? I will repeat them: Thirteen, 14, 10, 65, 10, 2, 3, 25, 26, 27. So, with that, I will entertain a motion to approve the consent agenda. Spelman moves to approve. Second by council member morrison. Is there any discussion? All those in favor, say "opposed say no. Passes on vote of of 6-0 with the mayor pro tem off the dyas and I am adviced mayor pro tem will be here later. He has a sick child at home and caring for the child. He will be in as soon as he can. So we will now go to those items pulled off beginning with item number 2. We have a number of speakers signed up to speak. The first being adrian ne, ne. Okay. I am informed that is adrian neeley, but it says ne, n-e on the screen. Welcome, sir, you have three minutes.

Good morning, mayor, mayor pro tem, and absence, city council and city manager. My name is adrian maley and the chair of the minority owned business, women owned business and small business advisory procurement advisory commission, I am here to speak on item number 2, austin energy weatherization program. I just wanted to give you a brief overview of some of the things that have transpired within this program that has become a concern to our advisory commission, and first wanted to let you know, mayor and council that, first of all, we are not here to hold up the moneys that you'll be considering for the weatherization program. That is definitely not the intent of the advisory commission, but to otherwise inform you that we have some deep concerns about how this program and maybe other programs that need to be coming on later on and the effectiveness as far as how the contracts are issued and how the -- within austin energy. Our commissioners had several conversations with austin energy in regards to the weatherization program, the facilitation, implementation, the contracting and subcontracting processes, and to date, we still, as a commission and community have not received representation from austin energy that some of these problems could be solved. There are other members of the commission here to speak of some of those issues, and would ask that you give some support to us to ask austin energy to help improve the weatherization program. There are a lot of families out in our community that really benefit from this program, but we also have to consider the minority and small business benefit, and that's what we have been trying to address. We had a hard time even getting austin energy to even respond to some of the requests and issues that have come up in our meetings, and so we felt like the this was the best way to address the issues, and hopefully they will understand and respond to the -- to the business community, as far as efficiencies within the contracting process. Thank you. thank neeley, I forgot to mention, you are signed up neutral.

Correct.

Mayor leffingwell: Stephanie paroney. Stephanie paroney is signed up for. Welcome. You have three minutes.

Hi, mayor, council members. My name is stephanie paroney, I represent foundation communities and affordable housing provider here in austin that supports over 2,000 families in our community. My role in the organization is to rehab all of our portfolio energy efficient, water efficient and adhere to the standards, we have been working with the weatherization program over the past two years in helping our residents go through the program, benefit from the program and reduce the overall demand. I am here to encourage council to approve the funds -- additional funds for the weatherization program and to continue helping families reduce their overall energy expense. Thank you for your time. thank you. Next speaker is elaine johnson. Elaine johnson is signed up neutral. Welcome. You have three minutes.

Thank you, mayor, and city council. My name is elaine johnson, i am the president of abca, which is african-american contractors here in austin. I am neutral and I am also a subcontractor on this program. I am hoping that you will consider the recommendations that will be made by another member of the hispanic chamber -- the hispanic contractors, will be able to consider the things we are going to bring to the table on this program. This is a great program, and it's for the minority community and the less fortunate community, but the problem with the promise is that, as a subcontractor, which I am, it is not lucrative. I am currently on the contract and I am not sure if you are aware but there are files actually distributed to primes and then the primes distribute them to the subs. I am on one contract that the prime will pick out the most expensive items for me to go and perform, which then I make no revenue off of them and when I came and will start verbally, you know, voicing my concerns, just recently in the last week or maybe two weeks, i received four files from this particular contractor. And the sad thing about this particular contractor, he has made right at approximately a half a million and the dba percentage that I received 75% which is roughly about \$3,000. And so the program is for the small subcontractors to grow so that we one day will be a prime and this is impossible with the way files have been administered. And there just is not -- they are just not equally distributed. I have a big problem with this. Also, on this particular prime, he has a prime contractor as one of his subcontractors. To me that is double dipping, and that is also a problem. In order for the program to work, we will have to have a change in the way things are being distributed so that the subcontractors are able to work. And just a little bit of information, we have 30 subcontractors go through the weatherization training and out of 30 of those contractors, one is a

prime and I think it's one, myself, is a sub. And that's sad. Because we all went through the training that austin energy provided, so why are we not working? So that's a big problem. And I just want to end on this last note. I performed a home back in september, and as of today, april 7, I am still not -- i still have not been paid for the work I performed. Thank you. thank you. Next speaker is andrew ramirez signed up for.

Mayor, let me quickly ask if mr. larry weiss is here. Okay. I see you. Thanks.

Good morning, my name is andy ramirez, mayor pro tem -- well, he is not here. City council members and city manager. sherman neeley stated, we are very much for this program. Obviously it is a good program. It certainly provides a lot of good things for people that need no -- good things for people who need weatherization so they can reduce the utility bill. Our problem stems from, i think, what I sense from either our lack of communicating properly to austin energy staff or their reluctance to paying attention to this program, one or the other. And I -- I apologize to austin energy staff for my failure to communicate properly. We provided some recommendations. We got back some very -- i didn't like the responses. What we were looking for and what we are continuing to look for are solutions to concerns that are expressed by the subcontracting community and other members of the community. All we are trying to do is finances and that's what we ask. I chaired the subcommittee to do exactly that and we so stated. We so stated we were for it. We did not want them to rebid, readvertise, amendment the contract. We made that specifically clear. However, what we got back are very standard garden variety kinds of answers that, you know -- and I have been in the federal grant business -- I was, many years ago, and understand that process. The thing that concerned me, among a bunch of other things, I don't sense the sensitivity in terms of the interest, in terms of what the nbe, ordinance and program is all about. The answers that we received were well, to -- well, the last time I requested a response to the last set of recommendations, they were confrontational. I asked the staff to provide those recommendations to you, and again, I apologize to the austin energy staff saying, well, they were not meant to be confrontational and I apologize if they were. The last comment that really disturbed me and not only disturbed my chairman and other members on the committee, was that in order to take a look at some of the issues that we raised, that it was a lot of work for the staff and too costly. Well, you know, I would appreciate it very much for some kind of idea, if it is going to cost you a dollar or \$10,000, what is the cost? Obviously the answer, to provide us a very kind of garden kind of variety answer to that is an insult to us. [Buzzer alarming] I am a businessman and i work and I have people that work for me and that say, when they say it is too costly, I want to know how much. I am sorry I have run over.

Mayor leffingwell: yes.

But I think there has to be some kind of sensitivity, some kind of effort and better, I guess, working with snbr and austin energy. thank you.

Thank you. next speaker is carol headnot, signed up for. Welcome. You have three minutes.

Good morning, mayor and council members, my name is carol hatnot and the program manager for fulton for the austin area black contractors association. I was part of coming before the advisory committee and the council subcommittee regarding the austin energy weatherization program. I have to give you a little bit of history. They came out last year, before austin energy to do some outreach about their weatherization and solar programs and we told them that we were interested in getting involved -- excuse me -- in weatherization. So jan larsen, the business development director over at austin energy established a training program for digital workforce academy, conducted training for 30mwbes, currently four participated in the program and one as a prime and four as subcontractors. The issue was how austin energy allowed the prime contractors to distribute the work. Three years before this program established -- i have to regress -- we didn't even know the program existed over in austin energy. So when we wanted to get involved, this was the statement made, that we are not qualified to perform the work. You know they don't have the insurance and the tools that they need to do to perform this work. And I -- that is one reason why the academy was established, and necessarily less to say they did not

know that austin energy -- not austin energy, but it was another department with two other people. I have call their names because I don't know their department name, anna reeve and carol gusrey were over it and we had a weatherization program and it lasted five years and we didn't have any of the problems that we are being confronted with today. The people in the weatherization program are inflexible. They -- everything is no. I never heard of a contract that could not be negotiated or possibly amended, but that is their philosophy. They felt that our recommendations were benign and confrontational. All we were saying, improve the weatherization administrative process, how they distribute the work, establish some benchmarks that provide fair and impartial impact to all of the contractors, the requests, the evaluation matrices should be published in the rfp and that ae should pursue available funding sources when they require special requirements like bpi and resnick certification. We talked about removing justified selection criteria, evaluating, review everyone involved in terms of being a prime and a subcontract, and improve [buzzer alarming] the transparency and accountability of the project. We have others that are listed on here. I don't have the time to tell you about it, but, please, put these -- have these processes put into place before they -- thank you.

Thank you very much. next speaker is al mandria. Al is signed up for. Welcome, you have three minutes. mayor, mayor, city council members, any name is al mandria and the manager at mccullough contracting and we are a prime contractor and want to say I want to come down here for passing of this item and if it does not pass and goes back out to bid, it will take significant time and i know in our case we will have to lay off a significant number of people off many in that case. I don't want to do that. I know the other contractors are concerned about doing that as well. I know that there is a push for to open this back up so that additional -- I guess that's from the dsmb, minority and women owned advisory board, I don't really understand that, as i understand it, the city's goals for this contractor, 1% minority and women-owned participation. Two of the prime contractors are certified with dsmb, one is a woman-owned contractor, one is a minority-owned contractor. So before we even have to subcontract out for city goals, approximately a third of this contract is going to women and minority-owned contractors. 1% additional, we are now talking 50% of this contract is going to minority and women-owned contractors already. So I don't really understand the push for opening it back up. My understanding is that the state is giving this money to the city of austin because the city of austin has a working, existing program. They are under pressure to spend this money within a certain amount of time and i believe they're concerned that if this is opened back up, that the city is not going to be able to spend it in that time and they may pull the money back. Last, I would say that this program is doing excellent work, excellent energy conservation work that's needed by the low income residential community here, and I hope that you'll take all of that into consideration and pass the item. Thank you. thank you. Meridith and lisa york, you have up to 6 minutes.

Hi, I am part go green squad, women owned prime contractor. I want to say this program is going great in that it is a deceptively complex program. You think weatherization has been around a long time, but this program has all kinds of additional requirements where we have to do tests in the house for the blower door test, duct blaster test, co test. Lots of additional requirements above and beyond the previous program, which requires equipment and it was in the bid that we had to that have that equipment. It is also different in that this is our first contract with the government, by the way, and it is city, county, state and federal. You think we are a little bit crazy to do this because the paperwork is really quite a bit, and so there is a lot of work involved with I the think johnson is referring to is that the overhead required for this program is very high, so the margins -- and we have had lots of discussions about this. The margins are not really great for splitting between a prime and a sub, and so it does make some, you know, some problems with that. But I don't think it's something that austin energy is doing. I think, you know, it is really something that's coming down from the state and I know that they have been looking at how to do things differently. I know that they know that there is some things like solar screens as an example, and I have talked to other committees about this before, where the money that comes to us basically covers the cost, and actually sometimes doesn't cover the cost, so the margins aren't always there, and the cost of materials raises, too, hvac is going up in a lot of materials. That's really what the problem is I think, not such subcontractors, primes, minorities and not but just the margins on this program are kind of small. If you think about the complexity of what we are doing, think about a huge big construction project which I know you guys approve all of the time. And the margins can be

small on that because you are dealing with lots of dollars, but when you are talking about \$6,000 for a house, you know, well, we've got a lot of overhead, so the percentage of the overhead is higher, so that's the thing about, you know, are the people getting enough. I think the program is fantastic, you know. It's doing something good for austin. It's doing something good for low income families. It is doing good for minority and women-owned business. Over there is a minority-owned business and he said 33% essentially goes to minority and women-owned business, so doing a great job there. We have some subcontractors, some don't count as minority and american owned but it is southwest keys which also supports those communities and so i think it is wonderful we get more money for that and i hope it runs as going, because we finally worked out all of the details and don't want to go back and work out more details with new people. We want it to run smoothly. thank you. Paul saldana, signed up neutral. Welcome, paul. You have three minutes.

Good morning, mayor and council member, my name is paul saldana, speaking on hispanic contractors association. We have been working in partnership with the african-american black contractors association group. Let me start off by comments to reiterate, again, what has already been said by some of the previous speakers. The minority owned women contractors support this contract. In fact, my grandmother who lived on third and wild for 50 years gets one of the benefits of this particular program. I want to clarify we support this program. The point of contention and the issue is that there has been historically underutilization of minority and women-owned contractors in this particular contract. There is a misperception which is often a misperception of mbes and dbes that we are not qualified to perform certain type of work and that is incorrect and I think that's what we have here, is an issue. A few years ago, back in 2005, the hispanic chamber conducted a community score card to the city's mbwb program and one of the main points that came out of that particular study is that we had discovered over \$450 million of contracts that were awarded either sole source, noncompetitive or no goes. The majority of those contracts came out of austin energy department. And so we presented those finds to the city and I am happy to say 6 of the 7 recommendations we had made were actually implemented. Perhaps the goal here and that not eluded to some of the recommendations that we made, but it appears austin energy is not following the mbwb program in guidelines and I don't recall if they are exempt from the mbwb ordinance, and I think if we can do a side opinion of what the mbwb program requires and what is the recommendation from staff and I remember a few years ago when our previous city manager was here, she had basically empowered the department directors that would look -- and she would hold her project managers and directors accountable. What she would do is incorporate as part of the a success strategy evaluation for the money that was being spent, one criteria was to assess, manage, evaluate, how well the contracts managing were perform as well as it relates to mbwb inclusion and perhaps that's what we want to do, ensure accountability. There has been historic underutilization of minority and women owned contractors and about 30 went to the training and there is a blatant disparity in the contract award. We ask as the process goes through again and we are about to award the contracts, clearly the ones who get the contracts aren't there because they are there but there are disparities to be addressed. Thank you your your time. thank you. Clodial haynes. Signed up neutral. Welcome. You have three minutes.

Mayor and council, my name is flotel haynes, a contractor here in austin and advocate of of minority and women-owned businesses, very strongly and my comments are just in terms of observation, I attended the minority women business advisory committee meeting this week and despite what one of the speakers said this morning, there was absolutely zero push for recommendation. There has been no call from the community, not to go forward with this vitally important program for our citizens. Not only does it deal with energy efficiency goals, but it also helps folks in our community that really need these services in terms of improvement of their housing so there has been no one advocating stopping this program. What has happened through the citizens of this community and the advisory commission is a call for the city staff and hopefully you the council to look at this program, evaluate it and identify ways it can be improved. What is wrong with that? Energy efficiency and effective minority business participation are not mutually exclusive. If they are, something is wrong. We ought to be able to have programs and go after federal funding, as we have throughout the years in this city; where not only does it tackle important issues, broad issues of energy, but let's not throw out important issues as well, like minority business participation. I have looked at the recommendations of the committee, and I don't

know if you've seen them or not, but I don't know how anyone could call these confrontational. I don't know how anyone could say these are benign. These are -- each of these good business practice for this city. So I would just implore the council, go forward with this item. We need it. Foundations community has done a good job in austin. I support them. But when citizens take their time and bring to you issues of this -- of this import, it is important to look at them, and to take it -- take into account some of the things that have been heard today but also the hard work of the advisory committee that you appointed to say, here are some things we think you should take a look at. This is not a program that needs to be shut down. But it is one that needs to be improved. Thank you. thank you. Christine valdez has signed up for, not wishing to speak. And those are all -- that's all the speakers I have signed up at this time. I would like to ask a couple of questions from staff, beginning with -- we may need -- we may need byron, also, standing by. First of all, this program, as I understand it, is under a severe time crunch.

That's correct. we have known that from the very beginning, so if we lose time, we also run the risk of losing the contract money -- the federal grant money.

yes, larry, east austin energy, general manager. That's correct. We -- this program got to a place where the state had -- we had extra money. The offer was put out that if we can run our program and get everything going, we can -- we can use these funds. And if we don't continue the program right now, there is a chance we wouldn't have that. But I can let carl speak to more of the details.

Just to add a little detail to that, we've committed the initial \$6 million that was originally granted that was the subject of so much, you know, are we going to spend it on time. We are ahead of schedule on that. So far ahead of schedule on it ha the state asked us to take another 2 million-dollar that is other cities and counties aren't using. We aren't the only entity they offered money to but they said if we can continue to momentum including couple hundred applications that we already took that will qualify but will expire 30 days after they were qualified, meaning if you take a delay, in addition these units, foundation communities and others have identified, if we can hit the ground continue running, actually, continue momentum 1 million to do that but if they don't see the signs we are able to continue the momentum by additional delay, they have got people who can get this money spent in other places. The it is an off of 30% increase in the amount of funds we received under this progr in additional 4 months to get the work done. So it is a greatly accelerated pace but it is only possible because we are getting the work done historically on this.

Mayor leffingwell: Accelerated pay, my understanding, we are still going to abide by the spirit of the mbwbe program?

That's correct. And one of the speakers said we worked with them, we conducted the training exercises and qualified with the firms with the special training that needed to be federal participants and set goals on weatherization work and are well on track to exceed the goals of the work. We are keeping 75 or more people working at some level on some kind of payrolls and a lot of them are in minority and women-owned businesses and subcontractors in our community, so we took our obligation very seriously and we are exceeding the expectations on that and we continue to work with weekly tracking reports with smbr including communication with contractors, we have -- we continue to work on this, we are honoring the obligations and there is no gap between austin energy and smbr in ensuring the goals of their program and our program are met. you are completely satisfied spirit and intent for the program for awarding these contracts have been followed correctly?

Yes, the folks in procurement helped us. Smbr helped us and the other people -- the awards on these contracts were made well. This issue of work allocation is a slightly different issue and I can address that if you'd like to speak to it. go ahead. We would like to.

Well, let me sort of set the ground rules. The first -- the contract term we entered into with our primes said that the work would be assigned equally at first and then based upon performance. We have been

meeting on a regular basis with the advisory committee, as well as rmc in tracking ourselves, the way the work has been assigned to the primes. There are and, therefore, by the way by implication to their subcontracts. There are differences. The assignment of work is not equal. It has not been equal because we have been following the performance criteria. So when a contractor or their sub does a job that doesn't pass final inspection, and we have to go back out and do a second inspection or whatever to clear that job, we don't assign them a new job when another one comes off the desk. So some companies fell behind. In addition, some companies had special skills to do certain things, like heat pump installations in a multi-family unit that other firms didn't have.

Mayor Ieffingwell: Excuse me, just a second. So would that performance criteria apply to any -- it is not specific to this set of contracts?

It applies to all of the 6 weatherization contracts that we have with our weatherization outfit. all contract awards in general?

Well, I -- I am assuming there is always a performance criteria, but this one says about the assignment of work.

Mayor Ieffingwell: okay. Byron --

you notice we -- we noticed we were having that problem about five months ago. We noticed some firms were waiting longer to get new jobs because they were taking longer to clear old jobs so we started holding mandatory contractor and subcontractor meetings starting in january. We took pictures of things they were doing wrong. We sent inspectors out with contractors and city staff who had been doing weatherization work for years also out with contractors to help them get a clean project completion so they could move quickly to getting more projects. We have seen, in the month of february, we saw 50% reduction in failed inspections and the month of march we saw another 50% failure and that work is working its way through the system to ensure that what our contractors have, and, therefore, their subs is an equal opportunity for a fair share of that work. And this that's what we all want -- that's what we all want, I think in producing this work. We are committed to continuing those meetings. We work hands on with the payroll work for davis bake, with inspections, with all of that help, so that everyone gets a fair shot at the opportunity to get -- to earn those revenues under the contract. And we will continue to do 1 million as well. thank you. I have a couple of questions for byron here. First of all, I think you wanted to respond to the previous question that was asked.

Byron johnson, finance administrative services department. To answer your question, yes, sir, we do have performance criteria and you must meet it in any of our contracts. This contract has a secondary level of that -- that carl was speaking to that says work allocation is based upon performance standards in meeting those standards. The third point that carl was making is, is that they've escalated the frequency of the meetings and the type of the meetings over the last couple of months to try to mitigate some of the problems that they have had. So we are starting now to see some results from that, and so, with this new money, it's hope that the contractors will be more on schedule. They are more attentive to the demands of it. Talking with veronica lara, they scheduled more meetings -- performance of all of these contractors will be rated, so at final close-out, there will be the chances so if there are some issues with the prime contractors, then the appropriate action that mwbe ordinance allows to us do at that time. Some of it can't take place until that point and those records are completed but the commitment from austin energy and purchasing and smbr is to take those actions to be able to keep this contract going and to ensure compliance. so is it fair to say that we could continue and keep this program on schedule and still address going forward the issues that have been raised by these speakers?

Yes, sir. In fact, I think with more frequent meetings and the more different types of meetings to address individual issues, I think that's been a real answer and has helped. i think we have to do both of those things, I think we have to keep this process on a fasttrack -- [applause] -- we have to keep this process



on a fasttrack, because it is good for everybody. It is good for the contractors. It is good for austin energy. It is good for the people who are getting the this work done. But, at the same time, we need to make sure that we are following the recommendations and continuing to talk address these problems that have been raised.

The message is very clear, sir.

And whatever motion is made, if a motion is made for approval of this, i would add that as direction to continue to meet and address these problems.

You have our commitment on that. thank you. Those are all of the questions that I have. Council member riley.

Riley: I guess I have a question -- the concerns we heard were not just about allocation of work with the primes. We also heard concerns about fair and timely payment of subs. Is there anything different about these contracts in terms of how we are dealing with primes as opposed to subs, and what can we do to ensure that there is fair and timely payment of the subs?

The answer, I think, was best said by one of the speakers. Yes, this is unique, because there is davis bacon, there is a lot more processes in order to get payments made that are not in some of the contracts that if it was just city funding because you have federal funding, you have state funding. There is a very much longer process that goes through to make sure that absolutely everything is done and completed and approved before you can actually get the payment made. So that has taken a little bit longer. That has been a challenge and it's a challenge that austin energy is working in smbr is working and trying to identify some of the individual contractors that are having some issues so that they can be meeting directly between them and prime and the subs.

Riley: So we have a process in place, whereby a sub, who is dissatisfied with the way they are either getting assigned work or getting paid for that work, that they can bring these concerns to your attention and that issue can be addressed?

Actually, they would bring them to smbr and then smbr would thing work with the department to do it and if there is compliance issues we work to generate compliance letters or to set meetings and be able to get their appropriate attention.

Riley: Thanks.

Mayor leffingwell: Council, I entertain a motion -- council member shade.

Shade: I just want to, because I serve on the committee and these are not new subjects, I want to reiterate what the mayor said that we need to address these issues and continue to address these issues. And one thing I am curious about, that I didn't get an answer. What is the strings attached to this money? You mentioned the program goals. What exactly are the goals? What is department of energy looking for? How are they measuring the success?

The department of energy passed through the texas department of housing community affairs who is our boss on this directly, requires basically they should be able to spend the money on time and on target and that when you spend the moneys the fully compliant with all of the federal rules and their rules that associate with it so it has to be the right price, the right work at qualified units and other than that, you have to stay on performance track that shows you are getting number of units done, and that is really the main sort of, if you will, condition on this offer of the 2.1. They are looking at it saying, we will give you a big chunk of money. You only have four months to do it. If you can move without any interruption, we believe you can. If you interrupt it, we don't believe you can. I -- it's actually -- it's a

golden rule situation. They have if gold and they are making the rules, but we 1 million and 600 more low income homes weatherized. We are ready to keep moving.

Shade: That's the question I am getting. The goal is 600 units?

We want to spend the 1 million on 600 more households being substantially more energy efficient.

Shade: How many units did we do with the first 6 million.

A little shy of 1100 units, it will be less on these because there are a lot of multi-family units gathered together.

Shade: These are more multi-families?

Yes, rapid hit.

Shade: Again, i appreciate the mayor's comments. They are the ones I would .. I will make a motion.

Mayor leffingwell: Council, entertain a motion on items 2 and 25, 26, 27 related items. Council member shade.

Shade: I will make a motion that we approve this and with the direction that the mayor has provided and with the deep appreciation of the work of the committee and their consistent tenacity as well of all of the contractors who are working on a project tha is, as was stated earlier, incredibly complicated and a little too bureaucratic for my taste but at least we are getting houses weatherized.

Mayor leffingwell: Motion by council member shade to approve 2, 25, 26 by conventional direction. Second.

Morrison: Mayor.

Mayor leffingwell: Council member morrison.

Martinez: Sorry, I have some questions before we go forward.

so how long have we been giving -- how long has the actual work actually been going on.

It was april. I think it took us about four months to get -- once the initial award was made four months to do the solicitation, to select the contractors, to come to you and get approval for budget and acceptance of the funds. I believe we started working around april, so we've been going at it for about a year now, and the deadline for the original work for the 9 would have been august -- or would be -- is august. We've obligated, though not spent, all of the original 9 as of about three, four weeks ago. so -- and it sounds like you've got some Really the main sort of, if you will, condition on this offer of the 2.1. They are looking at it saying, we will give you a big chunk of money. You only have four months to do it. If you can move without any interruption, we believe you can. If you interrupt it, we don't believe you can. I -- it's actually -- it's a golden rule situation. They have if gold and they are making the rules, but we 1 million and 600 more low income homes weatherized. We are ready to keep moving.

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Well, they're designed primarily to do what we need, which is we need six contracting firms ready to go out there and weatherize homes all the time. When a new file comes, we need to be able to assign it. What holds us off is either a special type of project -- there's not a whole lot of those -- or the fact that the contractor is maintaining a backlog because of quality problems. So correcting the quality issue -- and that -- by the way, that could be quality in the performance of the work. It could be quality on the filing of their davis bacon payroll reports or things like that. There are all these complications that ms. maretta talked about. We need to be able to have them submit a file when we say we're ready. We want it aligned. We want more of them getting more of the work done and we want that equal opportunity. and it started in january. I'm wondering, did it take that long for you-all to realize that we had this issue with needing to --

well, replaying the tape on the history of this is that this was a -- this was a project that when we designed it we knew we were doing a lot of investment up front and loading the pipeline. We had to get

a lot of files approved and reviewed and get a lot of contractors trained on the audit process and all those sorts of things. So we really started hitting a stride of about a hundred homes a month in -- at around the start of the last quarter of the last fiscal year. So somewhere around october-november, and that's when we noticed that the pipeline was getting really clogged, the sort of unmitigated focus on just getting the numbers -- you remember the political heat that was going around when tdhca was threatening, resulted in these sort of quality problems pushing through. So we had a lot of meetings. Me and my team, and we shifted a lot of resources to that afternoon decided we'd oh eto that and decided we'd start having these mandatory contractor meetings so we could unenclosing the end of the process. it really took to november before that happened.

Right. my question i think really is for weiss, and that is, just in general, I'm concerned when we hear folks say that when they are interacting with staff the response they get back is, you're being confrontational. We don't have time for questions. And I wonder if you could comment on that in general just in terms of trying to make the city move forward in a positive way --

well, in fact, if that is taking place that's unacceptable. So we will continue to work forward and improve in any of these areas, and so i look forward to that work.

Thank you, mr. weiss. That's all I have. mayor, I have some questions. council member cole. I certainly appreciate the hard work you've done thus far with a very complex program, and i am most pleased by weiss's comments that if we are not having cooperation by staff and the public we've got a problem. So what I have in front of me are the recommendations that I understand that both the african-american contractors and the hispanic contractors have been discussing with you, and I've given my colleagues a copy of those and i understand that the second page and the last six bullets -- it's those that are really up for discussion, so I think that we have reached a point where we're just going to talk about them, and we need legal to pay attention if there's any particular problem with having these implemented. And I heard the testimony loud and clear about the need to go forward with this contract and the complexity and davis-bacon act, and even I sort of step back and take note of the idea that these things are so complicated that somehow the minority contractors can't get up to speed to participate at a higher level. And I do understand the other side of that equation, the pressure on us to actually give the weatherization to the low-income community. So my first question is that one of the recommendations is a use of rotation list, and before I get started with your response on that, I want to point out that it is my understanding that all of these recommendations are currently being implemented in other city of austin departments who are exceeding or nonresponsive with the mwbe roles. So talk to me about the rotation list. Why is that a problem?

This is set up as a rotation list. This is one of those i didn't understand. We have six weatherization contractors and eight intake assessors and eight final inspectors and they all work on a rotation list. The problem I was describing is a rotation but it's a rotation based on performance. So you might get a job and then the next file goes to the next contractor, or it has to be 20 at one unit. You might get 20 and then the next 20 will be -- we've been doing exactly that for over a year now.

Cole: okay. So that's great.

I've got no problem on that one. That's how it works. so you understand how important it is that we use rotation lists, and there's been a motion and a second on the floor, and I'm going to eventually make a friendly amendment that all these things be considered and still negotiated with you, and I understand what you say about a performance limitation. Is that correct?

There is -- there is -- there is an existing contract. I'm not in a position to -- and I'll let these guys jump in -- I'm not in a position to renegotiate the contract with the primes right now.

Cole: okay. So can you consider this going forward?

Well, we've always -- we've always told the advisory committee in response to their recommendations that we are taking these seriously. I've put this in writing. I even offered at their last meeting just yesterday or the day before that I would form a stakeholder group to look at incorporating more of these recommendations in austin energy's free weatherization program, but that we were not in a position to renegotiate the program with tdhca, doe or our prime contractors at this time without the delay that would risk us losing this money.

Cole: okay. So I understand that you're saying this use of rotation list that you just said was not a problem --

we do it all the time. you do it all the time, but we couldn't make a commitment to that in connection with this particular contract. Is that correct?

We're doing that. oh, you're already --

that's the way this contract runs. It runs on a rotation where you assign based on ability to perform. so I guess basically this is something that you've already agreed to with the minority contractors?

This is something that was required by the way the contract was passed down from doe through tdhca. It's been the way it's been structured from the very start.

Cole: okay. And so you understand the important of that?

Absolutely. We see the value of it.

Cole: okay. Another item was the prequalified vendors list with an open-ended updating of new qualified vendors. Do you understand what that means or --

I understand it, but i don't -- I can't speak legally to it, but my feeling is that -- I'll let byron get in -- I don't think the contract with tdhca or the department of energy allows that.

Cole: okay. Let me -- rather than go through the rest of these, because it sounds like you would really like more time to think about them and talk to the contractors before you commit, and we understand all the complexity of holding up this contract.

That's the offer that's on the table with the advisory committee. I told them I would continue to look at these things and we would talk about ways that we can take their intent and incorporate the best ideas in other programs that we're doing as we go forward.

Cole: okay. Well, let me do something to save us a little extra time and give you time to do further discussions with the advisory committee. I want to make clear to the public that the items that the african-american contractors together with the hispanic contractors have asked for is the use of rotation lists, the use of prequalified vendors lists, the use of a transparent procurement process and award augmentation criteria, the use of fair, impartial scoring matrix for bid reviews and subsequent awards, and fair and impartial project administrative process subject to consistent review and update as appropriate, and consistent use of benchmarks to evaluate ongoing progress toward the mwbe goals by contractors. Now, I sit, along with mayor pro tem martinez and council member shade, on the mwbe committee, and it did not sound to me like those were any stringent requirements or something that the city would have to blink in connection with committing to try to do or actually doing or would raise any legal hurdles, but I don't want to just assume that. I want you to be -- have the opportunity to continue to negotiate with the advisory committee and the contractors. But I also do not want to have this discussion about items that we think are a part of a contract when it comes to negotiating with a minority community come up over and over again where there has not been an adequate opportunity for both

sides to work out those details. Are you clear in terms of what the direction is?

If we bring you another contract of this type or on -- maybe if there's another round of weatherization or we do contracts for our free weatherization program, i will commit to you that i will tell you how we've addressed every single one of these recommendationsment it's the same commitment I've made to the advisory committee over and over again. It's the same commitment that I made going into this project. You have my word. thank you, mr. robbiedale. Thank you mr. weiss. I appreciate it. and the motion with the additional direction attached to it does include addressing all of these issues.

I want to be very clear, I don't -- we don't have a new contract that we're negotiating on the table right now. we understand that.

Right? But on any subject I'll accept that, fine, great. I'd like to get this -- further comments? All in favor of the motion on the four items say aye.

Aye.

Mayor leffingwell: aye. Opposed say no? Passes on a vote of 6-0 with mayor pro tem off the dais. Council, without objection i think we need to go to our 10:30 morning briefing. And then we can go back if there's time remaining on the other items pulled off the consent agenda. And folks, if we could hold it down as you exit the chamber, we're going ahead with our meeting. So hold your conversations down until you exit the chamber.

I apologize, I have been coughing in the morning. I'll try and speak or particulate. once again, folks, please hold your conversations down until you're out of the chamber. mayor, city manager, city attorney. I'm kevin johns, director of economic growth and redevelopment services. We're here to have a discussion on a presentation ON THE eBay PROPOSAL. With us here today is terrence spelman. Terrence is the senior director of paypal. He's been the business leader working with the chamber and the egrso staff on the project, so when there are questions, if you have any that you'd like to direct to terrence, I'm sure he wouldn't mind responding as well. The purpose of today's briefing is to present background on the proposal that is here before you today, as well as to give an OVERVIEW OF eBay AND THE Criteria matrix, all the logistical, the due process that we've gone through to bring this here today and to explain the contract agreements and give you background and answer any questions that you may have. So what is being considered today in this briefing is an economic development AGREEMENT WITH eBay AND The proposal today will be just the briefing and then we'll have a special-called meeting on april 12. We have already opened up for a citizen input, their thoughts, and that will continue through, I think, april 11. So far it's all been extremely beneficial and very positive. I think as a quick overview, I think most people know, BUT eBay IS THE WORLD'S Largest electronic commerce company in the world. It's \$9 billion company out of silicon valley, and the criteria that was used city's web analysis that was approved by mayor and city council. We feel it was a thorough analysis of the cost benefit OF eBay HERE, AND AGAIN, It was a very conservative analysis and only has direct benefits, so it does not look at the enplan model or the remi model which are modifiers. This is just how much money we should give them. eBay SCORED 90 OUT OF A Hundred. That's the highest score since the web loci analysis has been set up, so this is obviously a very super company. THE PROPOSAL BY eBay IS To create 1,000 jobs over the next ten years. The fiscal impact, when you kind of boil it all down, is that after the incentive we're recommending, there is still a net benefit of 1 billion, and again, those are just direct fees and taxes beyond the break-even point. That does not include the amount of multiple player of the businesses that do work WITH eBay OR THEIR Employees, so it is a strong net benefit. And you can see also in the footnote that we'll discuss in a minute, but the performance-based grant over the ten-year period is proposed to be 1.2 million. The economic development proposal, just to kind of reiterate, I know you've seen this, it is that they would create a thousand -- a thousand new jobs. They would have substantial private investment and leasehold improvements and business/personal property. They would locate in the development zone, which in this case is to collocate with the paypal facility, which is a great facility already here, and that's in the

freescall campus. And so the contractual obligations are that the company would invest the money indicated here, which is a company about a thousand new full-time jobs. The average salary is \$122,000 a year, they're software engineers. They would -- they agreed to work with our minority community and meet all of the city's compliance recommendations. The contract itself, the obligations, again, are performance oriented, so THAT eBay WOULD BE Required to develop the thousand jobs. They would be monitored year after year for both creating the jobs and retaining the jobs, and then over a ten-year period, based upon an analysis of \$250 per job created, the incentive would 2 million, as indicated here. Anytime that the performance measures were not met there would be no payment. So today I'm here and our staff is here and our REPRESENTATIVE FROM eBay Is here to answer any questions, and the purpose is to set the meeting for april 12 -- april 12, which would be a public hearing to receive comment and take action. So with that I'd be happy to entertain any questions. Questi questi ons?

Riley: mayor? council member riley. kevin, this has -- there are a lot of great aspects of this proposal. We're talking about very high paying jobs and a thousand new jobs over ten years. As we monitor the performance on this deal, will we be -- we're looking at whether the jobs have actually been created and maintained, what do we do to look at the pay levels over time to assess whether they really are high-paying jobs over time?

Yes, that is part of the performance measure is that you'll see pay stubs, you'll see what is -- stubs, you'll see actually what is paid to people and it will be measured out over the ten-year period.

Are there requirements of certain levels of pay that we'll be checking on in.

Yes, the average of pay has to be maintained at the 122,000, and we already know kind of the picture of the low end, which is in the 80s. So I think we've got a pretty good handle on it, but just exactly what you're saying is part of the performance measures. any other questions? Coun spelman. actually, suppose the following happens. Let me follow up on council member riley's question. If in some year the particular target for average pay is 110,000, on average, and they're supposed to hire a hundred people. Suppose they only hired 90 people but pay them on average 110,000. Would they get a payment of 250 for those 90 jobs or would they get no payment at all?

Well, the -- the performance contract is set up for the ten-year period, and so they have to meet it over that time period, and they have these benchmarks so they would not be paid if they did not meet those benchmarks. So we're very confident that will will work out, but there always is those he eventualities.

Spelman: okay. So in year 2014 they're supposed to get 100, pay 110, if they fall short either on the average pay or on the total number of people hired on the calendar year, there would be no payment for that year?

That's correct.

Spelman: okay. Would the potential payments roll over into the next year so that they may be able to cure it up in 2014?

Yes. The goal is still to create the thousand jobs, and it gives them an opportunity to do that. I was under the impression, actually, that this was a year by year benchmarking process and if they didn't make the benchmarks any particular year that there would be no role-over. Perhaps brian could tell me about the fine print on this, kevin.

That's fine. Brian, right behind you.

did you see that? My project manager expert here.

Actually they would not be eligible to roll that forward. They would not be eligible for that particular year, they would be eligible for any future years but the payment in any year they did not meet their performance, they would not be able to roll -- they would be eligible for future benchmarks, 114, 115 --

that's correct.

But the 2013 payment would be lost and gone forever.

That's right.

That provides us a tremendous level of security. I appreciate it. Help me understand this. Brian, you and I had this conversation, I just wanted everybody else to have heard it. How is it that the city is actually accomplishing -- getting a net benefit out of this deal? The usual case is we're getting a net benefit because property taxes have gone up, the tails actually made by the site itself, but the company. It's my understanding that this is different in the way that the city is actually get a net benefit from this relocation.

It's not different from other projects. We look at a variety of factors that go into the overall net benefit, and that's estimated increase in the sales taxes, property taxes, both on the commercial side and the residential side. There's franchise fees, alcohol, bench, tax revenues, fine, permits, et cetera. Those are all based in this project as they are on others, to go towards our overall net benefit and then we also look at the costs associated with any additional services that would be provided.

Spelman: right. But in -- I believe it's true that, for example, the samsung case, which is the benchmark case that everybody refers to, the majority of the benefits that we accrued from the samsung relocation were due to the location of samsung, from commercial property, tax increases and from commercial sales, and not from the relocation or the jobs given to people who were working at samsung. Am I right about that?

In the case of samsung it was an incentive tied to property taxes as a result of them building a brand-new facility. In this situation the company is going into an existing facility so there's not that incremental property tax growth. All of these factor in job requirements but the revenue source may be different. but the primary source of revenue for this case is not commercial property increases and commercial sales, it's the additional wages earned by the people who are working AT eBay?

That's correct, in addition to the personal property investment they'll be making. That's factored in as well, but a majority does come from the spin-off from the jobs created.

Spelman: okay. Which is why it's particularly important for us to monitor not just number of jobs but actually the wages of those jobs to validate that we're, in fact, getting jobs at the property wages.

Correct. because if we're not getting them at the property wages, then that revenue cost -- that benefit cost calculation that you're making wouldn't apply; is that right?

It's the wages, it's the number of jobs and it's also the capital investment made, it's all those things, and those are allmon terd on an -- all monitored on an annual basis.

There's a -- on eBay'S PART TO FINISH OUT The buildings, a requirement.

That's correct. how do we -- we only get benefits if the people who are working for the city as a



municipal corporation only gets -- but the benefits that are listed on the web loci spreadsheet, if the people working at EBay WORK -- LIVE INSIDE The city of austin, is that right?

To a degree there's a component of that. Obviously if they're amaze the capital investment at the being the company, we'll see that benefit regardless of where the employees live. But when we look at this we factor in 60% of their employees will live within the city of austin. This is consistent with figures we got from our demographer. that 60% is based on what so far as you can tell?

Well, it's from the information we got from our demographer in terms of commuting patterns, for instance, austin residents -- jobs in austin are filled by austin residents as opposed to commuting and vice versa. here's a job in austin, 60% of the people who have jobs in austin live in austin. We're applying the same 60% to this --

right.

There's reasons for thinking the number may be higher or lower, but on average it ought to be just about right.

That's correct. and what assurance do we have that these -- the people holding these jobs are going to be people who are living here right now, that the benefits are going to be given to current austin residents and not people who are relocating to austin from some other place?

We don't have assurances. We can't go out and monitor whether they bring people from outside the area here, but what we do look at and what the application inquires is to the percentage of employees they anticipate hiring from the austin metro area, and in this case their estimate is 90%, and they're going to get that number based on their own market research in terms of the talent pool level here and it's much more cost-effective for a company to hire someone from this area as opposed to relocating them from outside.

I'd like to add, in light of my previous error, I've given some thought to that question, and I think that was a very good question, but I think for every family today that has an 8th, 9th, 10th, 11th, 12th grader, i think this is a really great pathway that we know we're going to create a thousand software engineering jobs paying \$122,000 a year. If I had a kid that age i would encourage them to begin to study software engineers so by the time they graduated from college these jobs are still being created and they could take care of mom and dad as they get older.

I, in fact, have a 24-year-old who is a software engineer. He is not paid \$122,000 a year but I hope someday he will be and in a position to take care of mom and dad at the proper time. I guess what I'm getting at from the point of view of the relocation of people issue, however, it's kind of relevant from the point of -- irrelevant from the point of view we're laying out here, if they move from omaha or san jose to take these jobs, we'll still get the benefit of their property tax increases, their sales tax based on the sales, we'll still get the commercial finish out and all that, it doesn't matter. Whether they're coming from omaha or san jose or they're here right now.

That is true in a sense, but we do recognize that the unemployment rate for the metro area is still 7% and for austin it's -- it's still way above normal. We do know that we've got 38,000 unemployed people here, and so far as we can both make a dent in that and open up to our kids who may graduate from high school and not know what they're going to do, some type of an important future path where they can make money. It does make progress, both to tackle the unemployment rate -- but you're right, it doesn't guarantee there won't be people moving here to snatch up some of the jobs.

There's a probability that most of the jobs will be filled by people who move here, but that's the way it works. Do we have in evidence that there's substantial unemployment among software programmers in

austin right now?

We have -- I've been working with some other companies that are looking at similar type of positions, and the fact of the matter is that there is a significant demand within the sector, and we may at some point in time face the fact that we're either at full employment or, you know, don't have the additional talent that we need to fill these positions. In this situation, you know, we can't state that because the company has done their research and is comfortable with that 90% local hire factor. Going forward, as these jobs are created and that talent is reduced, we may get to a situation where we don't have the talent for a specific sector such as software engineers. In this case because it's over a longer period of time hopefully there will be some -- as Kevin mentioned, some additional, you know, structure fortidents to move and get this type of degree because they see the type of opportunities that are out there. One of the nice things about this kind of a program and being able to get an assurance from EBay IN ADVANCE, THEY'VE Got to be hiring 100 people with particular kinds of skills at a particular level, skills of a particular level, that makes sense for science department at UT to fill this pipeline to understand what it is -- what benchmarks they've got to meet and gear up their program to actually get them that. Thank you. Other questions or comments? Mayor pro tem? Thank you, Mayor. Sorry I'm running late today. I was listening on-line and watching on TV, so hopefully I won't ask repetitive questions. I don't think they've been asked. I was listening to Council member Spelman on the radio when I was coming in, and he was talking about these benchmarks, and Brian, you mentioned if they don't hit that hundred benchmark in a given year, they would not be eligible for the tax abatement for that year.

That's correct. So I wanted to go a little bit further. So in year one let's say they only create 90 jobs so they're not eligible for that year; is that correct?

Actually the way the contract lays it out, it has specific benchmarks for each year and it's not a stagnant 100 per year. I think in year one it's 50 and ramps up but gets to the 1,000.

Martinez: Okay. So let's say we don't hit -- whatever the goal is the first year, if it's 50 and we only hit 40, does that mean in order to be eligible the second year you have to hit the second-year goal plus you have to make up those ten from the first year in order to be eligible.

Correct, and you'd have to hit that in year two and that will incorporate the benchmark for year one as well. And that's what caught my attention as I was listening because if we don't eventually hit those marks we'll never get to a thousand, if they keep, you know, every year rolling over and make themselves eligible for whatever the next benchmark is, we may never hit a thousand, and I wanted to make sure that that was part of the agreement, that they have to -- they have to hit those benchmarks in the early years at some point in that ten-year period.

Right, because the schedule would continue to ramp up, so it would make it that much more difficult to catch up. I had a question about -- I wanted to ask about residency requirements. Is there ever contemplation of requiring them -- since the company is going to be abated, you know -- city of -- off city of Austin taxes, do we ever discuss whether or not their employees would have a residency requirement within the city limits?

We don't go down that road, and the reason is we don't want to dictate to them who they can and cannot hire. We look at, obviously, the impact of the project as a whole. We use the 60% residency figure in terms of our own estimates, but I think you get into a difficult situation if you start requiring them to hire from within the city. That's not what I meant. I meant -- you can hire whoever you want. They just have the understanding that they have to live in the city limits of Austin if they're going to be hired, not just selecting residents to apply and recruit. I'm just saying -- you know, it's something we talk about like with our city employees. It's a conversation that's gone on for decades with the fire department and whether or not our firefighters should live in Austin since they work and receive benefits here. I think it's worthy of a discussion. I just wanted to know why we wouldn't do that in these cases when we're literally

abating city of austin taxes.

The reason we look at that is, one, it's another area that we would have to monitor, which obviously takes additional time and resources, but secondly, as I mentioned, it's really allowing them the flexibility to hire who they feel is the best qualified individual, sn if that person -- and if that person happens to live in round rock, that's their discretion. At the same time by backing out the percentages we feel that we get an accurate number in terms of our net benefit, whether somebody is hired that lives in the city of austin or that lives in the msa.

And mayor pro tem -- the law department would probably need to work with egrs to make sure that that kind of requirement didn't run afoul of the law in some instances and we're happy to work with that issue and work with them and get an answer back to all of you. right, and i don't know that that's a healthy policy to begin with. I was just going to ask in general what discussions have taken place. I would certainly want to research it more and determine whether or not it hampers our ability to go out and recruit companies because we're contemplating something like that, and if that is the case then i certainly wouldn't want to complement that as a policy -- implement that as a policy even if we legally could. And this is also -- so there's a location that they've identified, and that's within the desired development zone?

That's correct, the location is 7700 par lane. and so is there an option in the contract for them to move to another site if for whatever reason it doesn't work out?

Our contract states that they need to be within the desired development zone. If they were to relocate but they met all of their benchmarks, we would realize the same benefit. It's just a requirement that if they go anywhere outside the required development zone the contract would be terminated.

And they provide the required benefits?

They do. They provide a wide range and we look into that and that goes into the matrix score.

What is their policy with regards to diversity and hiring?

They have a hiring diversity policy and that's part of the contract, it's in there, but they do work to hit diversity goals.

Martinez: thank you. Thanks, mayor. other questions or comments? Thank you very much. We will address this issue at a special called meeting, I believe it's on april 12.

Thank you. -- to take final action on the contract. Thank you. So we'll go back to our morning agenda, beginning with item no. 2. We've got several folks signed up to speak. Are there any council members that have comments before we call the speakers? -- Excuse me, 3, we're talking about 3. 3, which is the city code relating to energy conservation audit disclosure requirements. Okay. We'll go to our speakers, victoria gree. Signed up against, and welcome, you have three minutes.

Good morning, mayor, council members. My name is victoria degrees, I'm here representing the austin apartment association as well as I work for churchill, and we manage about 300 apartment homes here in austin. The austin apartment association has worked with the stakeholders and provided input for the ordinance before you today. We received the revised draft last week and have not had time to share the information with the majority of our members. We are requesting a delay, or at least a passage on the first reading only so that we may brief our members. We have no problems with the multifamily regulations relating to the energy audits that are due to be completed in june of 2011. We have no problems with the concept of high energy users, and we have no problem with completing the cost-effective projects as defined in the ordinance to reach the energy-saving goal. Our only concern at this

time is after doing the cost-effective energy-saving projects we do not reach the goal, are we going to be forced to do very high-dollar hvac replacements and major construction or deconstruction that would not be economically feasible or even close to it. We had thought assurance could be given to us through the rules and found out on friday that this could not be done. We therefore need time to discuss with our membership and staff what alternative language might be added to clarify this issue. We therefore request a postponement or passage on first reading only. Thank you very much. thank you. Next speaker is bob thompson. Donating time to bob is linda thompson. Okay. Welcome. You have up to six minutes, and you're sig neutral.

A couple of handouts I'd like to pass down. pass them to council member cole and she'll pass them out - or pass them down.

Good morning, mayor, council members. I'm bob thompson, I'm a member of the austin apartment association, also a multi-family owner of a small complex and a few duplexes. The handouts include draft language of the sort of amendment that we would like to see added to section 6-7-23, which is the high-energy user section of the tcad ordinance, and also a letter which succinctly states some of the arguments why we would like to have this language included in the ordinance. What we would like to do is piggyback this new amendment on top of the other amendments that have already been proposed by austin energy, and so we would like enough of a postponement or only a first reading passage to give us time to collaborate with austin energy or the council staff to fine-tune the language of that piggyback amendment. What we're seeking is a safe harbor provision to be added to the ordinance, which would immunize cooperating multi-family owners who happen to be high-energy users but who have had an audit and have accomplished all the needed cost-effective energy improvements but still may not meet the energy production goals which are in the ordinance or would still be in the revised ordinance. What we're desiring from the council is if you become convinced, as we hope you will, that this is a good idea, that you give some directive today to austin energy and the apartment association to work together to come up with this language, and then meanwhile you would postpone or pass only first reading. The multi-family sector of austin properties contains 1500 properties, about 150,000 apartment units and about 330,000 residents living in those units, which is about one-third of the population of the city of austin. However, that sector only consumes about 10% of the total energy demand, and the high energy users presently constitute about 5% of the multi-family properties and 75% of the energy demand. There are about 75 such hatpres high energy users. E been cooperating strongly with austin energy in the audit phase of the ordinance, and many of our members are just now finishing up their audits and implementing the energy efficiency improvements, which are cost-effective, which have been recommended by the audits. The cost-effective improvements include such thing as deduct ceiling, adding solar screens where that might be called for on windows that get a lot of sun. The original intent of the eeu task force, which preceded this ordinance, and the original intent of council as expressed in the resolution that accompanied the ordinance, is that only comes effective improvements should be mandated and required, and in the council resolution a safe harbor was written that said cost up to 1% of the value of the property is what is metropolitan by cost -- meant by cost-effective, and so we propose in our draft language a similar safe harbor to be consistent with the initial intent of council back in 2008. Another safe harbor that's supposed to be more or less synonymous with that is such improvements should have a payback of seven years or less, but the 1% has more certainty to it and would probably be better in a legal ordinance. Higher energy use property is who's consumption per kill what hours per year per-square-foot happened to exceed 150% of the average in kilowatt-hours per-square-foot per year of all properties in their same cohort. The city of austin device the city into six cohorts, depending on the age of the properties and whether they do or do not have gas. We believe that there's no down side to implementing the revised language that we propose. There's no constituency that will benefit if a cooperating family owner does his best and still falls short. There's no constituency that would want that person to be raked over the coals, and we don't think that the council really wants that either. Austin energy has offered us a revision to the ordinance to cut the required remediation target from coming from 150% of average to below 110% as it is now, to instead achieving a 20% reduction. The problem is that we are skeptical that doing the cost-effective things will even be able to achieve the 20% reduction, and nevertheless, if someone does his best and happens to get 20%, the city will benefit from that. If they don't happen to get the 20%, we don't think they should be required to prematurely change out

their hvac units or replace their windows or deconstruct the apartment, and so we don't see any reason why such a revision as we suggest should not be part of this train of revisions that's getting ready to pull out of the station. I think I'm essentially -- your time has expired.

But I'll be happy to answer questions now or after -- thank you. Council member spelman? thompson, you cite in your email -- or memo that the task force reported e staff estimated that if you do all the low-hanging fruit, up to 1% of the total value of the project, that you would improve energy efficiency by 10 to 16%.

That's what they estimated in 2008. who did the estimate? Was it the task force or was that the ee staff?

I understood from the report it was ae staff in 2008 that made that estimate, and I would point out that that estimate is predicated on the assumption that they do all of the low-hanging fruit improvements. The properties which happen to be in the 5%, which are high energy users, tend to be older properties built before 1985, all electric properties. Those kind of properties tend to have asbestos in the popcorn ceiling and lead-based paint and it would be extremely expensive if they had to deconstruct the apartment to reach inaccessible ducts to seal them and that sort of thing. They tend to cater to lower income individuals, and i don't really think the city wants to mandate that those properties immediately have to be deconstructed. affordable housing stock. We don't want to break into --

but the major improvements will -- there will come a point in time where air-conditioning units wear out, they'll be replaced. When the whole place wears out it will be replaced, so in time the city will get those benefits. We just don't think they should be enforced immediately.

I understand. And let me be sure i understand what you mean by low-hanging fruit. You actually had a list, don't you? Is there a list in this email?

We put a list in the draft ordinance. We have some draft language there, and we included all the things that the audit considers plus everything else we could think of that seemed to be cost-effective. We included weather stripping, repairing hvac units, duct ceiling, attic insulation and solar screens, and the 1% would enable you to do all those things. That still won't be cheap. It will be 56 or \$700 per unit, perhaps but at least it won't be several thousand per unit which would be require -- unit, if you had to do the hvac replacement, tearing out windows and that sort of thing. basically this is the same list as we're talking about with our weatherization program with the exception that we would not be replacing hvac systems? From your point of view, replacement of hvac systems will be a much higher ticket item which could very easily go over that --

right, and most multi-family properties, when the units come to the end of their lifetime, which might be 15 or 20 years, they do replace them and when they do they get better energy efficiency replacement, much better. And so the city realizes those savings over time, but I don't think it was ever the intent of the task force or the council to be so hard-nosed as to require those things to be done prematurely. well, with premature -- the value, of course, of premature replacement is that we do get the energy savings from not having to run an hvac system which is using more electricity than it needs to. Thank you, mr. thompson. I appreciate it.

Mayor? council member riley.

Riley: mr. thompson? I'm sorry to bring you back but I just have one question for you. I watched the electric utility commission's march 21 consideration of this item, and there was a lengthy discussion about a recommendation from the austin board of realtors about the timing of the requirements for providing an audit for the -- for the seller to provide an audit to the buyer, but I didn't see discussion at the euc about the changes you're proposing, and I'm just trying to figure out why that is. Why wasn't this

put on the table at the electric utility commission?

Austin energy just didn't bring it to our attention that this revision was coming down the pike, and so we didn't know we should be attending that session. I should say that in the multi-family sector, the audits are mandatory and have to be done by june 1 of this year, so the point [inaudible] only applies to the residential segment of the population, which is one to four units.

Riley: okay.

But it just -- although we've cooperated very well with austin energy and they told us that they were going to try to soften the high energy user portion of the ordinance, we just didn't see the language and didn't realize we still had issues of this sort. So we should be attending these meetings.

Riley: okay. I see. Thanks.

And nothing that he say here should be construed as criticism of austin energy. They've worked very well with us. They give seminars to our members on how to do the audits, and, you know, we're -- we're all in this together, in the same city, and working together we should be able to solve this problem. thank you. Council member morrison? I'm sorry, do we have more speakers? I didn't mean to interrupt that. well, let me -- we don't have anyone wishing to speak. I'd like to read the names that are signed up. then I'll have a question for staff. signed up for and willing to answer questions are christina ortiz, earl harrison and cho car chatman thomas. Signed up for not wishing to speak, aaron farmer and brandy guthrie. Those are all the speakers we have. Go ahead. I have questions for austin energy staff and I don't know if robgo or mr. reese or whatever. You're certainly welcome to come up here and figure out the best person to answer. I have -- I have some concerns -- I mean, i certainly understand the thompson and the others have raised and i hope that we can get them worked out. Obviously the goal of this is a tremendous goal, to really try to rein in some of the high energy users, but the more I thought about it, the more I got concerned about how we're actually going to be -- how we would actually work it if the standard is that you have to, say, reduce your usage by a certain percentage, because once you go through all the effort -- you go through the effort to implement the changes, and then -- you then have to, i presume, do a year's worth of measurements of your energy usage to see if, in fact, you hit whatever target was identified in the beginning. So I'm -- this is what I'm thinking is what's going to be happening and maybe you can correct me. And then my concern is you don't know if that was actually an average year, the measurement year. It could have been a really hot year, it could have been a really normal year.

Well, larry weiss, general manager, austin energy. When the measures are done, we know from lots of our studies, industry studies, we know about what the energy savings are. So there isn't another test year after that to determine what was saved. And then coming into this normalization of energy use and a variety of statistical ways to determine what the base usage is, so without going into it, it's pretty well validated. We do it all the time with all kinds of buildings. so it's not about measurement. It's about if do you the following thing, that's a set --

and they're done correctly. and they're done correctly, then you get a check-off of having achieved whatever --

right, and that's all weatherization in general, is basically how it --

morrison: okay. Great. So that's -- that's helpful. The other question I have that was raised is, is this a -- is it your understanding that this approaching an improvement of high energy users is a one-time thing or are we every year going to be measuring the highest -- the folks that are over 150%? Because that's a rolling number also. As people improve that number goes down so if you do it every year you would

catch more and more people.

Right. I'll let Carl answer some of the detail here, but generally speaking, the low-hanging fruit concept is one that you make the effort to go into a building or to any kind of building, home, business, whatever. The effort to go in there, it's fundamentally a mistake just to take the low-hanging fruit. You've really got to go in and make the whole investment at the time, and that's the difficult part of energy efficiency improvements, is that at some point there's measures that you're going to spend money on and are expensive, and they don't have as much bang for the buck but we try to look at it holistically and look at the energy savings there. So that's always been a philosophical controversy on doing weatherization programs. But the other part I'll let Carl

on your specific question of timing, remember that the effect of the ordinance as it's written is that if you do these improvements -- and by the way, it's not just multi-family but it has to do with residential customers who take advantage of three or more of our rebates or commercial customers or whoever, you will get a ten-year basically sort of holiday from the application of the ordinance. So what happens is when -- when a facility would be identified as one of the 150% sort of energy hog facilities and it goes through this process, the idea is they would move far enough into the major part of the bell curve that they would not be picked up again, and they'd enjoy sort of the ordinance exemption for ten years. That's why it's critical to get those comprehensive energy efficiency improvements when you get to them. And yes, the next year that you give reports, somebody else will still be 150%, and they will be the next obvious building for improving it. So you have a ratable process operating at the tail end of the bell curve to try to improve the entire multi-family housing stock in our community. and the bell curve is moving as we --

it is -- if we're doing our job right. Now, if we don't do our job right and we let them do only, you know, minimal energy efficiency improvements, they will move end from the tail end to the center part of the curve. They'll be -- and we won't move our bell curve, and what we'll have is a lot of facilities who might have done very few things and then for ten years are not touched by this ordinance. I guess the concern I have is if you think of it theoretically, in 20 years down the line and we've got really stellar across the board energy efficiency in our multi-family, we've moved the bell curve all the way down to the bottom and we're still hitting on these folks to continue to improve. So to me there's a theoretical limit there.

It's a very good question. I've run three green building programs in three places in the last ten years of my life. I've never found a situation where you couldn't go in and say 50% of the energy, using all the technologies available, are not because we have inefficient buildings, it's because technology is constantly replacing itself. But if we have a situation where all of our multi-family units are at that other end of the bell curve, I'll move for repeal of the ordinance. I do want to raise the issue that we have to be very careful about balancing and improving the energy efficiency with -- this is exactly the housing stock that is a priority for us to say, because it is presumably 40 -- you know, 30, 40 years old, and is the affordable housing and multi-family that we have now.

That's why we're also offering enhanced rebates for some of those measures, for multi-families. We are increasing our program efforts, increased our budget, we're adding staff so that we can help this community get that energy efficiency. This is vital housing, but it is -- but in some few cases, a relatively small percentage, it's vital housing that is gobbling up a lot of -- gobbling up small energy paychecks for households. could you talk a little bit about the rebates, say that we have some of these apartment owners come in and to actually achieve the 20% it's going to mean redoing the whole hvac system. How much -- maybe I should ask them but just how much does that cost and how much of a rebate do they get?

It's really hard to say. It's per unit. I can't -- I can't tell you. We have hundreds of dollars, up to thousands of dollars in rebates for particular individual units, whether the air conditioner or the hvac unit or whether the solar screens is applicable in a particular situation. I don't know. We are offering enhanced rebates for the duct ceiling and the solar screens and I think attic insulation, because those are really cost-

effective and they really save a lot. I think we have regular rebates for the hvac as well. I don't know that they're particularly enhanced for multi-family at this time. But that does -- it's true, gets it more expensive when you go to that level. one last thing, let me understand what your poi view is and that is it doesn't make sense to just do the low-hanging fruit. You have to go at a whole hog.

This is sort of handed down in stone tablets in the energy community, because especially when you set up a program where you don't revisit the location for a long period of time. You've essentially shut yourself off from that opportunity. [One moment, please, for ]

Leffingwell: Councilmembers, can I make a suggestion that perhaps we can consider some of these issues, postpone this item. I know it is time sensitive because it's effective JUNE 1st, BUT I'VE BEEN Assured that postponing until april 21st would not hinder that requirement or be -- would still enable us to meet that. Perhaps we could have further analysis of the recommendations that are made -- that have been made and how difficult it would be to implement them or how costly it would be.

I will tell you there are changes in the ordinance before you. There are a couple of things to keep in mind. There's a change on the residential piece that everybody was supportive of that was intended to make Ery careful about balancing and improving the energy efficiency with -- this is exactly the housing stock that is a priority for us to say, because it is presumably 40 -- you know, 30, 40 years old, and is the affordable housing and multi-family that we have now.

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Leffingwell: I just asked your staff if april 21st would be a problem and they said. no.

I'm not disagreeing. I'm just take making you aware that it's a bundle of things.

Leffingwell: I understand. Mayor pro tem moves to postpone this item until APRIL 21st. Seconded by councilmember morrison. All in favor say aye. Opposed say no. Passes on a vote of six to zero with councilmember cole off the dais. 00, but we have one item thank will be very quick and we do have out of town guests here for item number 13. We've already discuss this had item. If we could get a quick recap and deal with that on 13 before we go on to citizens communication.

Thank you very much, mayor, mayor pro tem, council. My name is ross crow, assistant stoarnng. I'm here to speak very briefly on the proposed settlement with the city of burnet. I did want to take a quick second to recognize that david vaughn, the city manager of burnet, city of burnet, sheer with us, came today. Also lisa hasenbueller with the lcra is here. I think that all the parties -- we've worked very well with everyone in this process. I wanted to say that in response to the city of burnet's application to amend their wastewater discharge permit, the city of austin filed a hearing request due to concerns regarding water quality in lake travis. And after more than a year of settlement negotiations, the city of burnet agreed to increase treatment requirements above what the tceq required in the draft permit. And as indicated in the backup on this item, these changes address the city of austin's concerns regarding water quality. So staff therefore recommends that council approve the settlement agreement with the city of burnet.

Leffingwell: Thank you. Further questions? I'll entertain a motion on item number 13. Councilmember spelman moves approval. Mayor pro tem seconds. Discussion? All in favor aaye. Opposed say no. That passes by unanimous vote -- it passes on a vote six to zero. Councilmember cole is off the dais. So we'll go to the 12 noon citizens communication. First speaker is rae nadler olenick. The topic is water fluoridation. Welcome. You have three minutes.

Good afternoon mayor leffingwell and councilmembers. Today I'll explain the difference between natural fluoride and the kind the city of austin uses for water fluoridation. I need to do that because at last month's briefing before the council's public health and human services wang, the medical director of austin-travis county health department, gave out some very misleading information. wang began his presentation by assuring us that fluoride occurs naturally in water. Well, sometimes. And the less of it the better. What he did not tell us is that there's a world of difference between naturally occurring fluoride and the man-made kind that is dumped into our public water supply. Here's the difference. This is natural fluoride. It's calcium fluoride. It occurs in the earth in the form of the crystals -- crystals like these. It's about half fluoride and half calcium by weight. And as you can see it can be handled without harm. If and when it dissolves by natural processes like rain and makes its way into the water you drink, you're consuming fluoride, a toxin, along with calcium, a valuable nutrient that acts as its antidote. The fluoride we use for our water fluoridation never occurs in nature and contains for calcium. It's a liquid core row sieve acid that comes from places like this. The wet scrubbers of florida's phosphate industry, where noxious hydrogen fluoride gas fumes that can't legally be released into the air are captured and a soup of other industrial by-products, loaded into tank trucks like the one that recently leaked in rock island, illinois, labeled deadly, and transported cross-country to austin. You wouldn't want to touch that. As it happens, austin has just signed off on the first one-year extension of our most recent contract with long time fluoride vendor lucier to run from april fool's day of this year THROUGH MARCH 21st, 2012. Only lucier no longer exists. It was recently absorbed by mosaic crop nutrition, llc, making it hard to see who it is, ie mosaic fertilizers, a notorious producer that was fined for releasing noxious fumes into the air in florida. Since the contract which I've read in full doesn't require the city of austin to purchase any specified aunt of fluoride, now would be a good time to declare a one-year moratorium. Thank you.

Leffingwell: Thank you. Next speaker is stephan ray. Topic is -- the next four speakers will be speaking on park preserve issues. Stephan wray. You have three minutes.

Mayor Leffingwell: If there's a problem we could go on to the next speaker. Okay. Here we go.

My name is stephan wray. I live in the montopolis neighborhood. I've been involved with the montopolis neighborhood planning contact team as well as the montopolis trail association. This is a map overview showing 28 acres of property that the city owns. It's park property. This is a closeup. This is the tree that you see in the center there is a tree that we are actually considering to submit for recommendation to be the tree of the year for the city of austin. And this tree, we are wanting to name -- in the application process you get to submit -- you get to name the tree. And we wanted to call this tree the avatar tree. Appropriately. [ Applause ] the parks department has two primary goals for managing the preserves, continued to acquire a more detailed cross-section of austin's habitat for ecosystems and to provide land management and environmental land practices that serve to protect and foster stewardship and sustainability. There are a couple of different criteria for acquisition of preserves. They can be purchased property or redesignated parkland. This is already parkland. Technically it probably doesn't even have a designation. My understand is it was land bank, so it could meet that criteria. And then finally, some of the other criteria to look out include biological and geological diversity, presence of rare and eng endangered piece species, minimum size to be self sustaining. We know of preserves that are smaller than 28 acres. So what we would really like to be able to do is have a constructive dialogue with the parks department and city staff and the community and look at the criteria for preserves and really put forward this piece of property in consideration for that purpose. We feel that it meets the criteria and we'd like to see if staff will agree with that assessment. Thank you.

Mayor Leffingwell: Thank you. Pam thompson. Welcome. You have three minutes.

Thank you. If stephan has any minutes left over, can we give to susana because they're going to show videos.

Mayor Leffingwell: You can't donate time on citizens communication.

Here is the tree of the year I'm going to hold it up so people can see. It's nominate your favorite tree. We're just going to call that the avatar tree. And it's the city of austin.org/tree of the year. And I'd like to say that I've walked that land with several of y'all, and we have a great deal of interest in our neighborhood for a preserve. Tomorrow at our -- at the practice fields, the montopolis practice fields, we have 200 kids from american youth works who are going to go down in the woods and pull out tires and take out invasive species. And then on saturday, which is a part of the keep austin beautiful, we have two classrooms of students who are between 11 and 12 years old that are coming to help clean up our creeks. We'd like to invite all of y'all to be there and some of our councilmembers have come and we would like to thank them very much for that effort. But we're very interested in preserving our green spaces because our houses are small and we have lots of people that live in apartments there. And we have to have an area for these people to go and have fun and enjoy life. So I'd like to thank you very much for listening to us and helping us with this issue. Thank you.

Mayor Leffingwell: Thank you, pam. Susana almanza. Same topic. Welcome. You have three minutes.

Mayor and city councilmembers, we have a video to show about the 28 acres that we would like to continue to have as a preserve.

It's a very steep incline. When you look off to your right you will be seeing the thick trees, but you're only seeing the top of them. [ Inaudible ].

Right here is a significant drop in elevation down to the creek. And throughout that whole creek valley right there is dense with trees. And along these tops here are these live oaks, right before it drops that way. We're going to go along this way to look at the really huge oak trees that are over here on this

side.

If you'll listen, there's nothing here but us. This is a place of peace and serenity. These trees have been here for hundreds of years.

We just finished going through some of the 28 acres that's adjacent to the Roy Guerrero Colorado River. The official address is (indiscernible). It's sandwiched between the Roy Guerrero Park and Austin Community College, and the what we're doing here is letting people see the natural beauty that exists here. We'd like to have the 28 acres turned into a preserve. And we're really opposed to bringing the Peas Park Disc Golf to this area.

Me personally, growing up here we didn't have bicycles. We all rode horses. We used to ride our horses all up here in this area, down by the Colorado River. So this is nothing new to me. It was something where we played as kids all the time. I don't have anything against disc golf course. I have the golf course itself. I support that sport. I just don't think it's a place for it. I don't think it's a good fit for this park.

So what we're engaged in is an education campaign to let people know how precious this area is. To us here in East Austin, the value of these places, the tranquility and the mental health and spiritual peace of mind that it gives us.

How far from a tree like this can you put a disc golf course without there being ever any threat of those disks hitting the trees? Is it 100 feet? Is it 200 feet? Is it 300 feet?

Mayor Leffingwell: Is that the end? If you like we can pause the tape and call up Daniel at the same time and you can continue the tape if you would like to do that.

Thank you, Mayor. I would, but I'm here to express gratitude and thanks to Marc Ott and Sarah Hensley from the Parks Department for their cooperation and also to Councilmember Morrison and Martinez and Riley for helping us in resolving this situation. We are still very spread in helping the disc golfers if they want our help in finding appropriate location. As you can see, Colorado River Park and everything adjacent to it is very important to us. We thank you very much. Thank you all so much for your help on this.

Mayor Leffingwell: Thank you. Did you want to use the rest of your time to finish the --

I would. I would like to say one last thing that is totally different. South by Southwest this year was really great and I really appreciate peace and everything that we did last year to resolve that situation. I also want to express thanks for that.

Mayor Leffingwell: Thank you. And did you say you wanted to continue? Okay.

It's not part of the parks plan, which there is a parks plan.

You can look. I know people don't want to do the equity issue or the race issue, but let's look at the equity issue. We have spent millions and millions of dollars west of I-35 preserving lots of land, paying them for their right not to build on and not to -- not own, but not to build on it. I think there's an equity issue. Why can't we preserve 28 acres the same way in East Austin as we're preserving on the west side. So I think we need to look at that issue. I think that's the number one thing we need to look at, how can we make it a preserve?

What we're dealing with is a symptom of a bureaucratic culture that is separated from the community. Many city departments try and discount citizen participation, but they don't -- like I say, they don't

understand that they work for us. We don't work for them.

I think that one of the things in this tour that people learned is that there are beautiful large, heritage oak trees, pecan trees. Also there is wet lands here, there is creeks, but the other thing is that it's home to a lot of different bird and deer, foxes. A lot of the different creatures and insects, this is their habitat and home. It's important to preserve that. And so we feel that the more you bring activities and people into the area, then the more you displace those animals and those insects that call this place their home.

Mayor Leffingwell: Okay. Thank you. Next speaker is collette michael. Her topic is dissolving the office of police monitor and the citizens review panel. And you have three minutes.

Good afternoon. I'm collette michael, and wow, three minutes for a public comment is really not enough time for a person to get a point across. Certainly not enough time for me to convey the numerous pitfalls of this particular bureaucracy. I'm speaking of the office of the police monitor. I realize that hearing or seeing the term dissolving the office of the police monitor may seem radical, but I have personal experience with this particular bureaucracy and i plan on meeting with each and every one of you personally to discuss my concerns. Essentially the office of the police monitor is the baby of the city of austin and the austin police association, and it does not provide any representation for the public. The contract is very strict and limits the function of this so-called citizen oversight. It's merely a punching bag designed to exhaust complainants and shield the police from public scrutiny. And I would like to see -- i would like to see it go away. I would like to see more things for the citizens. law students to help citizens who are filing complaints against police. Police have the criminal justice system and lawyers at their disposal defending their actions and the citizens have no one. Again, my personal experience in this process. So I'll just be meeting with each of you personally. I'll get on your calendars and make nice presentations to you and hopefully I'll be back here later on at some other time. Thank you for your time.

Mayor Leffingwell: Thank you. Phillip green? The topic is water fluoridation.

Thank you. You recently were presented with testimony from environmental toxicologist, doctors, dentists, physicians and farm colingses as to the scientifically backed evidence that it is a co-row sieve toxin and has dozens of detrimental side effects at levels even a few times of that of the seven parts per million that we have in austin. The cdc's 2006 and 2007 study showing 41 percent of teenagers between the ages and 12 and 15 are suffering from dental fluorosis prompted the hhs and cdc to lower the levels 7 parts per million from the one part per million average across the country that as admittedly damaging children's teeth and causing widespread fluorosis. wong quote the little science, but a handful of studies that others tout as evidence of fluoride ooze beneficial effects. Findings from the 2006 report that said nothing of its shocking studies. Page 223 of the report, evidence of several types indicates that fluoride affects normal endocrine function. Some of these effects are soashed with fluoride concentrations of drinking water of four milligrams or less, especially for young children or individuals with higher water intake. Page 224, the effects of fluoride on various aspects of endo drin function should be examined further with respect to a possible role in development of several diseases or mental states in the u.s. Page 217, sufficient fluoride exposure appears to bring about an increase in blood glucose or impaired dpliewk levels. And in some individuals to increase fairtty of some -- severity of some types of diabetes. Page 228, further research on a possible effect of fluoride on bladder cancer risk should be conducted. Page 170, the possible association of cytogenetical effects with fluoride exposure suggest down syndrome is a biologically possible outcome of exposure. The national research council and national academy of science study which wong correctly quoted did not look at fluoride levels consistent with the .7 parts per million. It looked at dozens of studies of fluoride 4 to 4 parts per million, just three to seven times that of austin's. This study links the small amount to endocrine disruption, kidney malfunction, diabetic complications and various cancers. And further states that different individuals absorb and are sensitive to varying levels of fluoride. This and the uspcs were the two studies cited by wong and are full of blatant contributions and hold little weight in terms of the hundreds of studies showing the devastating effects of fluoride. It is time to call this issue to a vote. It is time for a moratorium on the issue of fluoride until it can be proven that diabetics, dialysis patient and

those with thyroid disorders and infants are not suffering lifelong injuries. A quote from former president of the american medical association, I'm appalled at the prospect of using water as a vehicle for drugs. [ Buzzer sounds ] fluoride is a core row sieve poison --

Mayor Leffingwell: Your time has expired. Thank you. Tim tobin I'm informed has cancelled his request to speak. So make sure tim is not in the chamber. So the next speaker is nathan chelstrom. Topic is response from the city legal department regarding development at 2700 edge water drive.

Hi. I have been the owner of the property at 2700 edge water drive since may of 2006. I've worked with the city of austin building and development department since that time. Last year after the city admit that had their inspection development process, which I had relied on, made a mistake inspecting and approving my property in 2007. The construction on my house was stopped mid stream for six months in 2010. During that time I attended five different public hearings with various boards representing the city of austin. All of the boards recognized the errors that constituent inspection process had made, and I was approved to tin building. The parks department made recommendations to the parks board at one of those public hearings, one of which was to prohibit any future building of a boat dock on my property. A property which has had a boat dock, a boat house on it up until 2004. The environmental board however approved my project and expressly recommended that the boat dock not be prohibited. The zoning and platting commission affirms the recommendation of the ev board on december 7, 2010. This brings me to today where the parks department is still intent on covering up the inspection errors that were made by the city of austin in 2007 by punishing my family. I know of no punishment that any city staff members has had because of those same errors. Chris yanez of the parks department at the ev board meeting on september first of last year told the members that the only reason for the recommendation for prohibiting the boat dock was for punitive reasons against me and my family. A boat dock on a residential property in the la zone is permitted accessory and in my case there is no navigation national or environmental problems placing a boat dock here since all the properties in my haven't have boat docks. A boat dock is a huge the value added to the lots on lake austin as well when the parks department is denying my family. Again, punishing me for following the city inspection process. All the while the city of austin has turned a blind eye to my neighboring property. In 2003 he moved his bulk head out in the lake without ever pulling a single permit. In 2010 I provided plenty of information to various city officials with no action taken. My neighbor currently has no restrictive covenant he's being subjected to, still able to enjoy his boat truck that protrude over the shoreline. I'm not here to prohibit others, I'm asking to be treated fairly. I think it is not right that a citizen have to pay for mistakes made and acknowledged to have been made by the city. My site plan is about to expire and in order for me to move into my house, i will have no choice but to consent to a restrictive covenant which unlawfully prevents me the use of my property. I implore the council to direct the city law department to work with my attorney and resolve this matter quickly and justly. Thank you.

Mayor Leffingwell: Thank you. Next speaker is akwasi evans. Is akwasi evans in the chamber? Not in the chamber. Those are all the speakers that we have signed up. So without objection, the city council will go into closed session pursuant to 071 of the texas government code to take up two items. Item 73 to discuss legal issues related to open meetings act. Item 74 to discuss legal issues relating to the funding of palmer events center and butler park. Is there any objection to going into executive session on the items announced? Hearing none, the council will now go into executive session. 483] Announcer: What if a disaster strikes without warning? What if life as you know it has completely turned on its head? What if every ing familiar becomes anything but? Before a disaster turns your family's world upside down, it's up to you to be ready. Get a kit. make a plan. be informed today.

Mayor Leffingwell: We are out of closed session. In closed session we took up and discussed legal issues related to item 73 and 7 had. 74. I think items 10, 14 and 17 will be very quick, council, so we'll go ahead and address those and then the rest of the agenda. First is item number 10. It relates to our federal legislative program. And I pulled this off the consent agenda simply because I want to add an item to that agenda. And I think you have the written material for it and i think it's already been

incorporated, but I think we need to financially acknowledge before we --

that's correct, mayor, and there is some staff from public works, carey juarez, who is here to talk about it if you have any questions or would like a summary.

Mayor Leffingwell: Okay. That's fine. Ms. juarez.

Thank you, mayor and council. This is the new name for what many people know as the walk for a day trail. It's a proposed regional trail that will connect the central city to the hill country. It will be a multimodal trail system approximately 35 miles long. It will begin in zilker park and conclude at the lady bird johnson wildflower center. It's planned to connect to other proposed and existing trails that could ultimately create a network of more than 95 miles of trail.

Mayor Leffingwell: Okay.

I'll answer any questions.

Mayor Leffingwell: Councilmembers, I passed out a briefing sheet on this additional item to be added to our program. Are there any questions about that? So I would entertain a motion to approve item number 10 as amended by the valley crown item. Councilmember riley moves to approve, seconded by councilmember morrison. Discussion? All in favor? Opposed say no. Passes on a vote of 7-0. Thank you. Before we go to item 14, councilmembers, without objection I would like to go to item 17, which was pulled by councilmember morrison for a question. That should go very quick.

Morrison: Yes, it should be very quick and I know we have someone from the parks department to speak to that. I just wanted some clarification, if you could give us a very brief overview of what this is and then I can ask me question. My question.

Basically we're proposing to do some renovation work in the area of auditorium shores near the women in construction pavilion. This is a grant that would come through texas parks and wildlife that we would like to apply for. It's very general. What we've applied for is trail improvements, benches, workout equipment, those kinds of things there at the trail head.

Morrison: So the question was how specific is the request for the grant because there were concerns raised we've got lots of needs in that whole general area including butler park.

Yes, the grant that we're applying for is very general. This time, though it is localized to the area near the women in construction pavilion. It is general and would have to go through design process and public input.

Morrison: Okay. Thank you. I move approval.

Mayor Leffingwell: Councilmember morrison moves to approve item 14. Councilmember riley seconds. Discussion? All in favor say aye. Opposed say no. Passes on a vote of 7-0. Thank you. So now, council, we'll go to item number 14 and have a brief description of the item by the law department.

Mayor, mayor pro tem, members of council, concern kinnard, city attorney. I'm here today to help you walk through item number 14 and some of the discussion points related to the resolution. Joining me today is jim kowser, who has advising us and he's going to key up the discussion as you consider adopting this item.

Mayor, councilmembers, some of this will repeat a discussion a couple weeks ago at one of the council

work sessions, but I think it's important that we recall why we're looking at this policy about city business on personal communication devices. The personal communication devices we're talking about would be, for example, your home computer or your personal blackberry or personal smart phone. And as we discussed at the work session, there is an uncertainty in the law in Texas on whether city business or other public business on a city official or city employee's personal communications device is or is not subject to the public information act. And briefly there is an important case out of the court of appeals in Dallas, City of Dallas versus Dallas Morning News, where the court essentially said if a city does not assemble or maintain and collect the information because it's on the mayor's home computer or home blackberry, then the court of appeals in Dallas does not consider that to be public information. The attorney general for many years has read the law differently and just say no, the city has to go get it even if it's on the city official's personal communication device. There are two other cases pending in Travis County on that. City of Lubbock versus the attorney general, Bexar County versus the attorney general, and the Dallas case is back in the trial courts. We don't have a definitive answer from the courts on this subject. That's the state of the law, but the policy issues are the reason that the council asked the city attorney and outside counsel to go back and look at this question and bring back some policy options. Given that it's not clear whether or not there's a legal problem with keeping public information on a personal device, the policy question really has to do with open government issues and does this council, does the city of Austin want or not want city business being done on personal devices. And if it is sometimes necessary, under what circumstances should it be done, and if it is sometimes necessary to do city business on personal devices, is there a way to make that public information. Some of the things that we had been looking at and I think some of the things the council members individually have done is to voluntarily take items of city business that they have received or sent on their personal devices in recent weeks and they have forwarded that to the city accounts or put that on a city system and voluntarily made that public information. This raised the question about does -- does the council want to develop a policy applicable to themselves or to other levels of city officials and employees where this would be routinely done. Where if city business -- I mean first the policy could address should it happen in the first place, should there be city business on a personal device and second, the policy would address if there is city business on a personal device, should it be forwarded, should it be made public in some way. That's the draft policy that city staff prepared and that was in your council packet this week. It's been posted as attachment to agenda item 14. And the policy as drafted is really very simple. It says in so many words do city business on city device, and then secondly if it is necessary to do city business on a personal device, then it should be forwarded to a city account. And, of course, it recognizes that if city business is done on a personal account but then forwarded to a city account, it still retains all the exceptions under the Texas public information act. If it's attorney-client privileged, if it relates to litigation, if it relates to certain property or security matters. So that's a very simple policy. I think what -- what the council has before -- has to consider also is do you want the policy to be universal across the board or is there a level within the city structure that the council feels the policy should be applied to while additional review and policy making is developed for people other than the high level of the city staff. Another way of saying that is there may be issues -- and when I talked at the work session a couple weeks ago, one of the things we reviewed was there are many city employees who don't have city email accounts. If we say you have to forward it to your city email account, how do you do that if you don't have a city email account. We've got 400 members on boards and commissions, many of whom are city officials, but they don't have city email accounts. We have people in the field who may be occasionally using a personal device for city business and they may need to do that out of necessity, but does the council -- has the council looked in enough depth to be comfortable saying this policy should be applied to everyone in the field. So one of the options that would be before you today would be for the council to enact this policy applicable to itself and to the officials and employees in the city or employees in the city who are appointed and under the supervision of the council and instruct the city manager to develop a policy that makes sense and it protects the goals of open government without unduly constraining the functioning of the city workers in the field for city workers who are under the supervision and direction of the city manager. Another option in developing a policy of this type is do you want to just say that the information will be forwarded or do you want to say that the information will be promptly forwarded. Do you want to address the situation of officials, for example, board and commission members who don't have a city email policy or do you want to study that further -- a city email account. There are a number of options the council can look at here. You know, another issue

would be where we have the language if circumstances require a city official or employee to conduct city business, is that sufficiently clear. I mean it seems clear to me, but some other people might have a question about whether, you know, there needs to be greater specificity about what those circumstances might be. So, you know, speaking on behalf of the outside counsel and the city attorney, I think this policy gives the council a range of choices in terms of how broadly it should be applied, when it should be applied, whether or not there is language tweaks that should be made to it, but I think there has been kind of an emerging consensus that there ought to be a broad policy so that in the interest of open government business on personal devices be discouraged and that austin govern transparent and conducted in a way consistent with principles. Mayor, I don't know if you want to discuss --

Mayor Leffingwell: I have a couple and we do have a couple of people signed up to speak on this item. First of all I want to say there are three and you went over all three of them, i think not only adds transparency but efficiency. It becomes very easy then to research records in the event of a public information request. And since we have implemented the policy a few weeks ago of having ctm do that record search, it seems to me it would fall under one search and make separate efforts by different people and potentially makes it a lot more efficient as well as transparent. And that's just a comment. On item number 2, very significant issue arises when we start talking about who a council policy applies to. And it may even raise constitutional questions, city constitutional charter questions with regard to can we direct city employees other -- in our form of government, our council manager form of government, can we direct other employees who we don't have direct supervisory authority over to do a certain thing, I think the correct thing to do here at this point would be to err on the side of safety and i believe also I would like to get your comment, city attorney, on the legality of us adopting a policy that applies to other than those who we directly appoint and can direct policy for, those being, of course, the city manager, the city clerk, the auditor and the municipal court.

Mayor, you are correct. The city council under the charter does not have the authority to apply personnel policies to city employees. That authority is given exclusively to the city manager. And so in looking at the policy, we would have to have some language that recognizes that the charter gives that exclusive authority to the city manager and not the council.

Mayor Leffingwell: Yes. And perhaps at some opponent in the near future the city manager could devise a policy that applies to the people who work for him.

Correct.

Mayor Leffingwell: Same for -- well, all the employees except for the judges work for the city manager.

Correct.

Mayor Leffingwell: And that includes folks in council offices.

That's correct, including the council aids. Under our charter, those employees are under exclusive direction of the city manager.

Mayor Leffingwell: Thank you. I just want to emphasize again that this at first glance seems like a simple process, but when you get done to the point of defining many, many words in here, what does conduct mean, for example, what does city business mean, what kinds of things would be excluded from the public information act. Presumably the same things that are now, but I think that needs further flushing out. There's a lot of issues we need to address that are currently unanswered questions, but we need to move ahead with this and do our best to answer those questions in the future. And others will come up, ones that we haven't thought of, because it is an extremely complicated issue.

Yes, sir. We can -- you know, we can start with the policy, and there's instances where you adopt



resolutions and set policies and then you look at how you actually implement that. And so this could be the first step of many steps toward the actual implementation through maybe some type of rule making or guidance on the policy.

Mayor Leffingwell: Well, I personally think that process should be a very detailed process, and perhaps the best way to look at that is with a task force. Appointed probably by the city council. We would appoint a task force to look into this issue and others we haven't identified and come back with a set of recommendations for rule making or whoever that is to be adopted by amendments to the resolution or whatever. But I think a task force, sort of a blue ribbon task force, a panel of experts in these matters would be very appropriate in this case to go beyond this point. Councilmember shade.

Shade: Mayor, could we -- first of all, I agree that because we want to move quickly to get something in place and because it's a lot more complicated than it seems on the surface with respect to the kinds of employees at all the different levels and because of legal issues about who we have authority to direct and who we don't and so forth, can we make an amendment or can we change this or make this policy effective, you know, because this has a date of effectiveness today, but can we specifically articulate out that it would be to ourselves just as, jim, you suggested to ourselves and to those employees who we -- who directly report to the council? That's not already in this text so we would need to amend. yes, councilmember, you could amend the ordinance -- I'm sorry, the resolution in that way.

Mayor Leffingwell: Council member, I think maybe we begin that process of amending, making corrections and so forth after we have our speakers.

Shade: I forgot we had the speakers, but I was going to say knowing that would be a first step, my concern about having -- a task force sounds kind of complicated. I would probably want to have as a next step have perhaps integrity officer, city manager and legal department and our outside counsel start fleshing out, you know, some more suggestions about how it would be -- how this could be implemented from a rules perspective. You know, put proposed and procedures first react to rather than having a more -- i don't know what a task force would mean, but it sounds like --

Mayor Leffingwell: That sounds like a task force.

Shade: Would you name the task force? To me it sounds like normal course of business, I would expect our legal department to come up with rules to enact this policy. Task force makes me --

Mayor Leffingwell: I see what you mean, but you are talking about adding this step to the process.

Shade: Yes, I agree a step would be added. What's the normal course of business, city manager, for how you would implement a policy like this?

Well, I would -- given policy direction from council, I would undertake to create an administrative policy that carried out what I was charged with. And in my range of experience as a city manager, that would be without a task force. I don't have any experience with a task force getting involved in the creation of an administrative policy that would apply to employees that are accountable and responsible to the city manager.

Shade: I would expect department to -- i know we'll have time for other questions.

Mayor Leffingwell: In that case we'll go to our speakers now. First speaker is debbie russell. Signed up neutral. Debbie is not in the chamber. Richard rips. Richard rips signed up neutral, and you have three minutes.

Good afternoon, councilmembers, city manager, attorneys, wherever you are. I just -- you know, I hope

that I'm speaking on behalf of the public. I had no idea coming here this morning what this agenda item was which is why I signed up neutral on it. But there is -- you know, it sounds like you guys are muddled in this issue of task force and who it applies to and what information is going to be public and what's not. You know, if the information is supposed to be public, then keep it on the public record. What -- you know, something that comes to mind is that if -- if you are going to be doing government business or city business through your personal devices, then are the -- the numbers and the emails that you are going to be receiving going to be available to everyone in the public. Like am I going to be able to get your phone number or your personal email address to conduct business. This is -- I mean as far as what the public relations is, you work for us. So if you are going to be doing business with these personal devices, am I going to have access to those personal devices. This is supposed to be public oversight, and I ask you not to pass this. This is why I'm up here. Having listened to the arguments, having listened to the legal arguments, it sounds like there hasn't been legal authority establishing an allowance for this resolution. So you guys kind of want to go ahead and just say you can do this, you can communicate about official business on personal devices, but has access to that. It's up to the individual councilmember, it's up to the individual person who is under scrutiny to come clean with what they've been discussing on their personal devices. Because you could just make an excuse saying we didn't talk about that or email about that. There's corruption everywhere, there's corruption in government and we're all aware of it. But how are we supposed to know what we can look into in your personal devices or what we can't look into in your personal devices? People have generally a big concern with privacy. So you wouldn't want your private thoughts and private records gone through. So why not just keep it all public and not be using your personal devices to carry out your business? So asking for a task force, that just seems like another bureaucracy and more money spent. Who should it apply to. You know --

Mayor Leffingwell: Your time has expired.

Don't pass this.

Mayor Leffingwell: Mayor pro tem.

Martinez: I wanted to -- rips, we're actually in 100% agreement. We don't have a policy right now that speaks to city business on personal devices. What this policy would say is all city business should be conducted on city email accounts, and we agree. And that's going to be a written policy moving forward. If someone happens to send us a city-related email to our private account, someone who may have our private email account, we then are required under this policy to immediately forward it to our city account; therefore you and the public would have access to it. That's going to be our policy moving forward, and it's in exact agreement with what you just said actually. The policy requires us to conduct all city business on city accounts. But if someone happens to send us something in the future to our private county related to city business, we will forward that to our city account subject to public information request.

I guess my question in that is do I have your private email account?

Martinez: No, you wouldn't need it because everything on my private email account related to city is going to my city account. And you have access to that. All information in that account.

It just seems like this is getting muddled --

Mayor Leffingwell: Unless the mayor pro tem asks you a question, your time has expired.

Oh, okay.

Mayor Leffingwell: Councilmember shade.

Shade: I just wanted to because I understand there's a lot of cynicism out there about politics and government and I understand that. But the practical reality of being somebody who sits up Public relations is, you work for us. So if you are going to be doing business with these personal devices, am I going to have access to those personal devices. This is supposed to be public oversight, and I ask you not to pass this. This is why I'm up here. Having listened to the arguments, having listened to the legal arguments, it sounds like there hasn't been legal authority establishing an allowance for this resolution. So you guys kind of want to go ahead and just say you can do this, you can communicate about official business on personal devices, but has access to that. It's up to the individual councilmember, it's up to the individual person who is under scrutiny to come clean with what they've been discussing on their personal devices. Because you could just make an excuse saying we didn't talk about that or email about that. There's corruption everywhere, there's corruption in government and we're all aware of it. But how are we supposed to know what we can look into in your personal devices or what we can't look into in your personal devices? People have generally a big concern with privacy. So you wouldn't want your private thoughts and private records gone through. So why not just keep it all public and not be using your personal devices to carry out your business? So asking for a task force, that just seems like another bureaucracy and more money spent. Who should it apply to. You know --

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Oh, okay.

Mayor Leffingwell: Councilmember shade.

Shade: I just wanted to because I understand there's a lot of cynicism out there about politics and government and I understand that. But the practical reality of being somebody who sits up here and gets elected is that you do have a lot of community connections and before you were on council you had an email and phone number and you maintain those reels ships. And in fact, it's illegal to use the

city system for anything related to the campaign. Some of us are involved in campaigning right now. When a citizen I meet on a campaign event wants to talk to me about city business, i, you know, or I met them during a campaign -- during the campaign in 2008 and that's the email that they know, it's been my practice, you know, to typically forward -- if anybody writes to me for a yard sign at the city, I tell them don't write to me at the city. I think it's a little more complicated than you may be giving it credit -- giving thought to. Just from a practical perspective, we have facebook pages. The technology associated with how people communicate with us, it's real -- the law has clearly not kept up with the technology. And I think we're one of many cities right now that's grappling with it which is why it is such a heavily, you know, written about and litigated issue right now. It's not as simple as it may seem which is why we want to be really careful and I think the points we were talking about implementing a policy that would affect employees who may or may not have a city account, boards and commission members, some with sovereign authority who serve in the city's official capacity but may not have a city account, we've got to look through all those things and it's complicated. I mean it's not as simple as it might seem. I think this is an important first step.

Mayor Leffingwell: Mayor pro tem and then councilmember cole.

Martinez: Mayor, I just wanted to finish my thoughts. I don't have any more rips but i appreciate your input and it is extremely complicated and we're trying to do what's absolutely the best, put what's absolutely the best policy in place, creating as much transparency as we can. And it is very confusing at times when we have these discussion, but as councilmember shade says, this doesn't even speak to social media, and lord knows we talk about city business through -- in fact, people post on your wall what's going on on my street, I don't know what's happening. So this is not going to be the end all be all. This is not a silver bullet for perfect transparency, but it will be a living, breathing evolutionary document that can and should change with technology with attorney general's rulings, with court rulings, with legislature. This is something that's never going to stop changing and we have to keep that in mind so that we can always be ahead of the curve in everything that we do here at the city. But I agree with you, it's been a difficult conversation, it is confusing. We will spend a lot of time and energy, but I think it's worth that time and energy to create more transparency in what we do here at the city. Thanks, mayor.

Mayor Leffingwell: Councilmember, did you have a question for the speaker?

Cole: Yes, I did. I want to say that you have nailed a point that I had not the previously thought about and I want to make sure that i get it and that all my colleagues get it. I think that what you just said is I can contact any of you at the city and google you or whatever and see your public city information. But I don't know your personal phone number or your personal email, but some citizens do. And you have the choice about that who you give that to. And if you are going to be conducting city business on those personal devices, then perhaps that information needs to be public also. Now, I haven't landed on all these issues because they are very complicated andi think the good argument whichi think you have already addted is where do we draw the line with that type of access and privacy. But perhaps because of the issue you just raised, maybe we should only contemplate this in connection with government, city issued telephones that are public, that can be accessed just like our city account, that everybody knows, and we do absolutely no business, city business or try to get there, I admit that's difficult, on any private device. Do you have any comments on that? Am I understanding you right?

Yes. I -- I think we're in agreement. And I was thinking about that, that maybe there should be a city issued blackberry or something. But my main concern is that this isn't specific enough. And it's kind of being rushed through. So you maybe want to take a look at it and get to the specifics before passing the resolution. Because this is very open-ended and it's open to interpretation. So yeah, getting -- getting the details down like a city issued phone and who it applies to is imorta because passing open-ended law is -- can be dangerous and can be up to too many interpretations and too many variations and leeway. So I think it's definitely important to look at the detail before rushing through this.

Cole: Thank you.

Mayor Leffingwell: Councilmember morrison, do you have a question of the speaker?

Morrison: No, I don't. I have a question for staff. I wonder if I could ask the legal staff a couple of questions. You know, we've been -- you all have been helping us a lot looking at other issues, seeing what other cities have done. Have you run into any other policies that in texas cities that are specific about how this is handled?

No, councilmember, we haven't been able to find any other cities that have a policy that addressed this issue. What we did is we tried to bench mark the other larger cities in texas, houston, fort worth, san antonio, el paso and dallas, and we could not find that another city of our size had any policy that addressed this issue.

Morrison: And then -- I'm sorry.

There is anecdotal accounts from current and former elected officials about what they do, and many of them say, for example, on, I do forward to my city account if I get business and I tell my social acquaintances don't do city or county businesses with me on a personal device, but none of that that we've seen arises to the legal of a resolution or policy. It's strictly anecdotal and personal.

Morrison: And then the other question about discussion in the outside of the city hall about this issue is I understand is there a task force at the state level that's looking at some public information issues?

Councilmember, currently there is a senate select committee that is looking at some open government issues that would try to bring the public information act up to speed with some of the newer technologies that have been invented since the act was last amended. So that select committee is looking at those issues right now.

Morrison: I see. So that might provide some guidance down the road.

That might provide some guidance down the road and our legislative staff is tracking some of the things they are doing this that particular committee.

Morrison: And then one other comment I have and it's for anybody -- you know, my colleagues for feedback and you all as staff and the attorneys, talking about city business emails arriving on my personal community, I was very active in the community before I got to council so lots of people have my email. And I think sometimes people just use it by rote because it pops out in outlook even if they start doing something else, and you know, forwarding -- the question is when I'm talking about city business, if I receive things, the question is for all of us are we automatically going to do it or only when we start engaging in it? Because one of the concerns i have the citizen that's writing me on my personal account maybe isn't aware that it's going to become public information. And so in a way I'm by default outing anybody who writes to me if I automatically forward it. And I can see a distinction between anything that's received automatically forwarded versus any time I'm ever going to engage in any conversations, making sure it's on city business. So I would love to hear people's thoughts about that.

Mayor.

Mayor Leffingwell: Did you want to answer that or -- no. Okay. Mayor pro tem.

Martinez: I have the same concerns. You know, but let me go a step further. There are groups, yahoo groups, and one that I'm on is the austin neighborhood council yahoo group. And I signed up for that on my personal account because i just want to keep up with the conversations coming out of that yahoo

group. But inevitably, they are talking about city business. Now, they are not talking to me, they are sending it out to the group. So that goes right along with what you are saying, is that something that I would then forward simply because I received that email. And then once I do, got to retain it, keep it, whatever. So that's an open-ended question that I have as well. I feel like if someone sends me a city-related email to my personal device and I don't engage, I immediately get on my city account and either respond to them or ask my staff to respond to them, I don't know, should I forward that anyway out of abundance of caution or --

councilmember, I don't think we can give you a legal answer to all these questions because there's a universe of situations that could arise in the context of what you receive and what you send on a personal email account. For example, there may be campaign finance matters which clearly should never get on to a system. There may be personal stuff mixed with city stuff. And that's the type of thing I think through policy making process with the city attorney, city manager, some refinements can be made on this. I think it's very likely if you send it you know whether it's city business so there is going to be a pretty well defined body of electronic correspondence on your personal device that you at least in the past you know. But one other thing I suggest here is that these situations don't necessarily get solved overnight. We talked with -- I talked earlier with Bob Pease, who is a very experienced attorney. Probably no one knows the open records act better than he, and when the open records act were first passed there were 12, 14 exceptions, over time -- one example that I think is -- nobody thought when the open records act was passed to include standardized test scores and the answers until people began making applications to school districts and colleges saying I want to see the calculus exam and the answers to the calculus exam the open legislature amended the act to say no, you don't get that. Instances may arise, and for example you may in fact receive an email on your personal device and it's just baffling. This is one-third campaign, one-third city business, do you separate that? I don't know. I think that's something that can be studied and resolved, but I think in the first place try to do city business on a city system, and in the second place, if you have something on your personal system and you know and anybody who looks at it knows that's city business, forward it and make it public and then the refinements can come with time.

Martinez: Mine is two-thirds city, two-thirds infill.

Mayor Leffingwell: Let me make a quick comment. Just reading the resolution, I would understand conduct business would be some kind of action. For a look of reasons. The main reason would be privacy protection for people who write you and messages that might contain as a mixture, several different subjects. So, you know, I don't know if there's perhaps even a legal issue with regard to that part of it, but I certainly am going to need some policy definition, you know, as soon as possible, assuming this resolution is passed about what conduct means. Because until I heard the mayor pro tem say that anything he gets over Yahoo groups or just regular email, I would have assumed -- have assumed that that would -- I would have to respond to that and then forward that to my -- if you care to make a comment. It's just one of -- as I said at the beginning of this discussion, there are a lot of terms in here that need definition. And as you just pointed out, those definitions evolve over time.

That's correct, mayor. And, of course, the other thing that happens over time is awareness. There will be growing -- if this resolution is enacted today, obviously everybody who communicates with you on a personal email device will not know about it tomorrow that that's potentially subject to be forwarded. I think in time there will be a growing awareness of that just as there is a growing awareness that people send to a city email system are subject to being released in response to public information act. There is an educational process involved, but I -- I think we can't adopt a policy like this and say there will still be absolute protection for anybody who might say something embarrassing in an email about public business.

Mayor Leffingwell: Councilmember Shade.

Shade: I was going to say I think the educational part and anecdotal part is important to remember and

what councilmember cole is talking about with an extra phone, i don't want any more devices. I can't keep up with the ones I have. Busy working people especially in a high-tech oriented place like austin, the reality is we have multiple accounts. And so, you know, on my personal device I can access my personal email and access my city email. And from this -- and I think the point of this policy is -- and that's what I need to be a working mom and on the go person is to be able to do that and keep up with the complicated aspects of my life just like anybody else does. I think the purpose here is to say city accounts shall be used for city business. And that means when somebody writes to me about something that's city business, I'm going to write them back and say use my city account. And use my email -- and I've been doing that already. It's very easy to do that with campaign stuff because we know clearly it's illegal to use the city stuff for campaign business. When somebody writes to you about a yard sign or bumper stick or or contribution, you write them back and say do not communicate with me. Our office gets phone calls about scheduling campaign events and my administrative person says please call the campaign office. So we're used to doing it and I just think that the public is going to have to get used to understanding that line and we're going to have something to do with making that clear. But I think the point of this policy is the city accounts should be used for city business and this is for those rare circumstances where it happens because we're human and people will contact. In that event, you will forward it. And I know there's a lot more complications to how that gets forwarded, but looks like somebody else wants to talk. I have some ctm questions in a minute.

Mayor Leffingwell: Councilmember spelman.

Spelman: I was not aware there were 40 exemptions to the open records requests. I'm not surprised there are that many and probably be more before the session is over. I haven't committed these to memory yet, but I don't think I really need to. kennard, could you explain what the process is by which we address public information requests from our emails? If -- well.

The city has a pretty centralized system of how it happens. Generally a public information request comes in either to a department or to our public information office. So if it comes into our public information office, they look at it, they make a determination which department or department for councilmember or offices may have responsive information to that request. Then they send that out. And within those departments and offices, there is a person who is designated as a single point of contact to collect the information that's responsive and send it back to the public information office. If it for some reason, like occasionally it does, you may get something in your office that the public information act requests and it's sent to the public information office and then they log it into their system and make sure that the single point of contact is working on assembling that information. Once the information is assembled, then it's sent back to the public information office and then they work with the law department to determine if any of that has any exemptions that need to be raised. There's some mandatory exemptions and permissive exemptions under the public information act, and we have a couple of lawyers and parallel to spot -- generally the departments will raise the issues, but we sometimes spot the issues. We then prepare a correspondence to the texas attorney general's office. There's a time period in which that must be done. The texas attorney general asks that we send what they refer to as representative samples of information that we think the act allows to be withheld. And then we send that off. When we collect information that's responsive to the public information request, we release the information that is not, you know, subject to a particular exemption. So you may have a release of the information and then a withholding of that information that a particular exemption has been raised. And it takes, I think, maybe eight weeks or so to get some response from the attorney general's office. If they say the information is confidential, we let the requester know that the information that we withheld attorney general ruled we were not required to release it. If the ag says the information is not subject to exemption, there are a whole lot of things we could do. We could go into district court and challenge that or we could just release it pursuant to the request.

Spelman: All right, so if I had somehow in my city email system something which was not -- city business, but single point in my office was unsure or not whether it constituted city business and sent it back to the public information office in response to a public information request, then it's not only up to me and the single point of contact in my office to determine whether this is conduct of city because,

we've got the public information office, the lawyers assigned to work on public information requests, and conceivably we have the attorney general's office and the courts and a whole bunch of other people who can weigh in on this. So it seems to me that if something shows up in my private email which is conceivable city business, maybe it is, maybe it isn't, i can't tell, it's three-fourths personal insult but I might interpret it as 100% personal insult, but it might be city business, makes sense to err -- if somebody puts in a request that may or may not include that email, people who know the exemptions and approximate policies can define them more clearly than I can will release it and not release it if it doesn't. Is that an accurate characterization?

Yes, sir. The policy before you clearly says if you are going to forward information from your personal account to the city, that the exemptions under the public information act still apply so a determine would be made whether or not that information had some exceptions to it or even if it was responsive to the particular request.

Spelman: There's not much of a downside to erring on the side of caution and sending anything that is barely conceived as city business to my city email account if i received it originally in my private email account. Is that accurate?

Well, there are always down sides.

Spelman: From a legal point of view, I would be safe in doing and it's unlikely something which turns out to be not city business will be. Be-erroneously to the public.

We really make a really, really diligent effort to be responsive to the request.

Spelman: Sounds reasonable to me. Mayor, I have a question of the city manager if I might. manager, we've got some discussion as to what would happen if we passed the resolution before us but only applied it to ourselves, to our direct reports meaning you, the city auditor, the city clerk, so on, but thought to anybody else in the city because that's your business, not ours. If we were then to direct to you come up with a policy regarding personal communication devices and other employees, how long would it take before you would have either a progress report or a policy ready to go?

Hard to say. Obviously we do it as quickly as possible. I recognize the significance and importance of the issue, but such an administrative policy potentially, as i mentioned earlier, could -- i mean have enterprise-wide implications. So it would take me some time to have that conversation with my executive team, as well as, you know, department heads as well. And I can take a shot -- a shot at just giving you a time frame, but, you know, maybe in the next three to four weeks, but I'm just taking a shot at it when I say that.

Spelman: Would it be -- in light of the fact you are probably going to need -- you will certainly need to talk to department heads, department heads may need to talk to command staffs and their executive teams and so on.

That's possible.

Spelman: Personal communication devices are used differently in departments probably on an ad hoc basis and we try to interfere we may have all kind of ramifications.

That's right, and the concern I would have is the potential for it to fundamentally affect how work gets done.

Spelman: It may very well be and this may be the best way for it to get done. If we were to ask you for a



progress report in 30 days, do you think that would be appropriate?

I will be happy to provide it.

Spelman: Mayor, if it's in order, I have a formal amendment language.

Mayor Leffingwell: It's. You mate want to make a motion on the resolution itself and amend it. Amend it yourself.

Spelman: Let's do this in two motions, I think because somebody may want to amend my amendment.

Mayor Leffingwell: I was just saying we can't amend it until we have it on the table.

Spelman: Mayor, move approval of item 14. And if I may have the floor after that motion has been seconded.

Mayor Leffingwell: You can amend it yourself.

Spelman: Mayor, I move approval of item 14 with the following amendment. Two amendments, in fact. On the first page, second to last line, the official or employee shall forward the associated electronic communications to a city account, we say nothing about how quickly we should forward that to a city account and we should conceivably do that within 90 days, two years and still meet the letter of the resolution. I suggest we add the word promptly between shall and forward. On the second page, after note 3, let me offer the following amendment. This policy applies to the mayor and all members of the city council, come a, and all employees pointed by city council including the city manager, city clerk, auditor, municipal court judge, municipal court and the municipal court clerk. It also applies to members of each city councilmember's staffs. [One moment, please, for change in captioners] it seems to me that it would more in keeping with the whereases in this resolution of wants to maintain openness and transparency to the extent possible if we could expeditiously include our staffs in this resolution, but I would like to ask the city manager whether he believes this would pose any problems.

Mayor Leffingwell: Let my say I totally agree to you on the concept. It raises this charter question again. I would suggest that the policy for staff be a part of the overall city employee process that the city manager comes up with. Sints they are his employees -- since they are his employees.

If we pass this the way i originally amended it and did not remove that line about it also applying to our staffs, if we did our staffs, if we did Way I originally did it, is this going to be posing a problem for you?

I think you heard the city attorney and even the mayor, but certainly the city attorney's opinion in regard to council's staff per the interpretation of the charter. So I don't believe that I'm in a position really to exempt them from any administrative policy that i would create relative to the charge that I'm being given today. I wouldn't be able to exempt them from that because they are city employees like all other city employees that I'm responsible for.

Spelman: Do we have the authority to do that?

I don't believe that the council's policy would be consistent with the charter if you included who you have authority over under the charter. So council aides are city employees around the classified service like all other city employees. So my recommendation would be similar to what the manager has said is that you couldn't exempt them from an administrative policy because the charter clearly gives the oversight to the manager of all employees under the classified service.

They're currently subject to compliance with all administrative policies and personnel policies. They're not exempted from those currently, the ones that exist currently.

Spelman: Of course, we haven't got an administrative policy on this issue yet.

I was just making the point that to exempt them, even if it was legal to do that, would be an exception to the current set of circumstances relative to existing administrative and personnel policies.

Spelman: If you developed policies that were more stringent than those we were talking about here, then this line would in fact be implicitly exempting them from those policies?

I thought that was the intent of what you were suggesting.

Spelman: Quite the opposite. We have no policy at this point. When we pass this will be the most stringent policy in the city with respect to use of personal communication devices. It would be my intention to at a minimum have the most stringent policy in place apply to my own staff. If this is going to be a charter -- potential charter violation, I will happily remove this, but I feel a need to mention that I will very quickly get with my own staff and tell them regardless of what policy you may not or may not be bound by, this is what you're going to do in the future and I suspect this is what they're going to do in the future anyway.

If you want to hold them accountable to a standard that is higher than whatever prospective administrative policy that I may put in place, because you're they're direct supervisor, and as long as it doesn't conflict with the administrative policy, then I would have no problem with that.

Spelman: I will do that. Mayor, I will consider the amendment not to include that line about city council staff.

Mayor Leffingwell: So did you second, councilmember shade? Okay. Are you through, councilmember? Councilmember shade.

Shade: So I appreciate all those additions and I understand the idea of the city manager within I think 30 days coming up with the administrative policy updates, sort of how it's coming along and progress report. Who would be most appropriate if we want to have the same kind of conversation among ourselves for boards and commissions? We have several boards and commissions that have citizens that are in an official city capacity. They have sovereign authority in many instances. They are reporting -- we as a body appoint them, but they aren't city employees and they don't have a city email address, but they are conducting city business. I guess who would I ask for help on establishing, a, where we might -- I don't know that every board and commission that's 400 plus people, I don't know that they would all need a city email account and I don't know even know logistically what that would take in terms of support and cost from our ctm, but there are certainly a few that I would want to look at, those who have sovereign authority. Would we add that to this policy? Do you have some suggestions, colleagues, about that?

I would say that -- you make a good point and there's no question that board and commission members are appointed by the council and can be removed by the council, so they're pretty much -- we could direct their actions, I believe, correct, city attorney?

Correct. You can direct the resources --

Mayor Leffingwell: The problem is how do they physically do it? What email address do they forward it to?

Shade: The city system has a web interface that any of us can use from a computer. So I would assume that anybody at their home could access the web interface, the email address or have an automatic forwarding type of function. It shouldn't be that complicated to give -- i guess if we did -- if we had 30 people, if we only took the land commission and the -- and maybe board of adjustments, the ones that have sovereign authority. We're talking maybe 40, 50 city accounts that would be set up perhaps.

I think the city clerk has been given the responsibility as kind of the liaison with boards and commissions. I know she's currently working on some cost implications. Maybe this is an issue that the law department would be happy to work with her on maybe bringing forth a recommendation to you for which specific boards and commissions maybe you want to look at having this policy or another policy related to this issue apply to. And she has a lot of information about the boards and commissions and works on those issues pretty regularly. We're happy to work with her on that.

Shade: Councilmember spelman, when we -- would there be a way to add a number 5 as a friendly amendment using the same language that you suggested for what the city manager would be doing in terms of administrative policy, but instead to direct our clerk to perhaps look at this issue with the sovereign boards and I'll leave it at that instead of all boards and commissions? Okay. So that will be a friendly amendment to add. And of course, I agree with the friendly amendment.

Mayor Leffingwell: I think that's very good idea. And keeping in mind that you mentioned three commissions that have sovereign authority, but there are actually many more than that. And they have specific authority over certain items and recommending policy over others. So it's not as simple as it looks. I think your idea to have the city clerk develop that policy, adding it to this resolution is a good one.

Morrison: Mayor?

Mayor Leffingwell: Do you have a comment? You're looking like you had a comment? Councilmember morrison.

Morrison: Regarding the boards and commissions, i thought it might make sense for us to have a discussion about the nitty-gritty of it at audit and finance because we do work -- if councilmember cole is all right with that.

Cole: I do have some comments about that. Do you have other questions?

Morrison: No, I wanted to bring that question up.

Cole: Mayor, I do have a few other questions along that line.

Mayor Leffingwell: Councilmember cole.

Cole: I think we all want to make a change in the policy and be able to have city business more accessible to the public by the changing technology. But I think we would be somewhat amiss, not even somewhat, greatly amiss not to think about or talk about the cost of that I am mr. indication. And we -- implication. And we might not be able to nail that down today, but we should recognize that under the posted information act, we talk about assembling and maintaining. And so although this policy doesn't mention that in the be it resolved clause that if we are going to set the stage, then we have to start thinking about the technology that would be required of the city to actually do that, even for the limited class that mr. spelman has said. How do you feel about that?

I think, councilmember, that the point you're making is that additional information is going to become public information subject to retention policies, classification policies, and it's undenybly the case. I think

the amount of information that is stored by the city is probably increasing exponentially and this is going to add to that.

And let me just back up because we kind of -- what other governmental entity have a similar policy? And I want you to let me know about the legislature, the counties, the school districts, just what information have y'all researched? First the legislature.

I think the city attorney has actually more familiarity with that question, but I think she addressed that earlier and said that from the benchmarking with additional major cities in Texas, we did not find cities with policies relating to personal information on private devices except anecdotal information. And by the same token, I'm certainly not aware of any such policy at the legislature. I think it would be a big surprise if there was a policy like that at the legislature.

Any other governmental entities, colleges, counties that we know about statewide that has a policy like this or any other policy?

I don't think we've done that survey, but speaking personally I'm not aware of any.

Cole: I say that, I ask that question simply because I want to make the point that we are getting into new waters. And there is nothing wrong with Austin getting into new waters, but we need to be prepared to do that and understand that, not just as a council, but as the entire city. And we want to hear back about that and we want to get their feedback also about any costs that we know of or potential costs to comply with that requirement. And would you please talk a little bit about the progression of the law? I know you did that in terms of the court cases, but specifically in terms of the attorney general opinion.

Well, again, councilmember, we've covered some of this in a previous work session, but of course when the open records act was passed there was no such thing as email. I mean, it talks about parchment and vellum. It was an old timey communications environment. By the 1990's the first mentions of electronic communications began to -- email begins to appear. And the attorney general opinions about public information act, and from fairly early on the attorney general has construed public information in the form of emails to be very much like public information on paper or magnetic tape. I think the issue has arisen with the proliferation of media that public information can conceivably be conveyed on. And whereas probably 25 years ago a city councilmember might receive or mail 20 letters a day, I think it's not unusual today for a city councilmember to receive and send 500 e-mails, many of which are spam, some of which are routine responses, but I think proliferation of strong communications -- of electronic communications and the proliferation of personal devices that has caused the issues in the law. And I guess what I would say is city officials and the public are communicating now in ways that never would have been visualized in 1973 unless you were watching Star Trek.

Cole: Okay. I would like you to stay there also and I also want to ask the city attorney, Miss Kenard to come up. I worked years ago for the Texas Municipal League and I remember how this was an issue that came up over and over again, especially with the rural counties that were having trouble with the technicalities of making it apply. And just recently we're dealing with sort of our personal conduct, but that is a totally different ballgame than entering into the legal world where I don't think I would be overstating it too much, but maybe somewhat where all eyes are on Austin. When I say that, I don't mean Austin, I mean cities, counties, counties, school districts. What are the rules going to be on line. Are you giving out personal cell phones? Are you going to have two accounts? Can you as a city councilmember afford an iPhone that has four different e-mails on it and what do we do about the councilmember that can't? And so these are complex questions and I think that it is good policy for us to be in the league. I have no problem with that -- to be in the lead. I have no problem in that. I want to be clear in the resolution and I want you guys to tell me is there anything in this resolution that prohibits us from moving ahead on trying to iron out legally some of these issues?

No, councilmember, I don't think this resolution impacts our ability to continue to argue some of the --

make the legal arguments that we've been making related to these issues. I know that there are other jurisdictions that will continue to make those arguments as well.

Cole: And I guess I want to emphasize that there are other jurisdictions and states, organizations such as tml, su tasb that we can ask for briefs from that we can collaborate with, put our heads together. We've talked about a taskforce. These aren't just issues facing the seven of us. So we need to remember when we get out into that realm that that is what we are doing. And if that's what we need to do, do it we will. I'm done, mayor.

Mayor Leffingwell: I have one question. We now have a revised resolution on the table that has five resolves in it. Number two has been amended to insert the word promptly. Promptly forward the associated electronic communications. Number four relates to defining who -- which specific people this resolution applies to. I don't have the language, councilmember spelman, assuming you're going to furnish that to us and to the clerk.

Spelman: I am typing it up so that the clerk can read it. I'm almost certain that she cannot read my handwriting. I can have one clarification question, however, to ask my councilmembers, however. I have -- if I may read language which is consistent with councilmember shade's recommendations of a few minutes ago and enter that as a formal amendment in addition to the formal amendment I offered a few minutes ago. Be it further resolved that the city clerk is directed to develop a policy regarding the conduct of city business on personal communication devices by members of city boards and commissions that make decisions that may not be appealed to the city council. And report progress to the city council audit and finance committee within 30 days. Is sha what you had in mind or do you want to report back to the entire council?

Mayor Leffingwell: I think that it probably should come back to council at some point, the commission, members work for us, but I wonder if 30 days is sufficient time to do that. I don't know. Does anybody have any thoughts? 30 Days is pretty quick. Cole co-i have a few thoughts. I agree with you that it is too short of a time and I also wanted to make another friendly amendment to councilmember shade's amendment not just about the cost of boards and commissions, but to the extent that we can wrap our brains around through the ctm department, what would be the costs of implementation of this policy in addition to include the boards and commissions to the things that we said? And also the record retention. Maybe that's a number 6.

Mayor Leffingwell: I think it could be included in five. To include in her report back to council financial impact.

Cole: It doesn't matter if it comes to audit and finance or the full council, but I think we could do more back and forth with the audit and finance. I would prefer that, but I would like all that information, especially the financial information, to be able -- the public needs to know.

Mayor Leffingwell: I think ultimately it has to come to the council. If you want to bring it to the audit and finance also, that's your prerogative, but ultimately it could not be approved by the audit and finance committee. So now we have resolution number 5 as amended by councilmember cole. Is that acceptable to councilmember spelman and councilmember shade? That provision simply requires a cost impact statement on that. And I have a question about resolve number 2. Since we have resolve number 5, it basically lines out who this applies to. Does this language that currently exists in circumstances require a city official or employee to conduct city business. Is that in any way contradictory or should we say require a city official as defined in resolve number four or should we just say a city official? How should we do that?

Mayor, I think if the policy is to be adopted as amended, I think it should say if circumstances require, a city official or employee subject to this resolution.

Mayor Leffingwell: Excellent. Okay. So city manager?

Just listening to cowers proposed revision, correct me if I'm wrong, but I guess I'm a little -- my question is about how we're defining city official and employee. City official could be any employee maybe or an employee certainly could be any employee. And I guess I'm going back to the distinction that was drawn between council appointed employees and the rest of the employees in the organization.

Mayor Leffingwell: City manager, if you will allow me, that's what we don't have in written form yet, but that is explained in the yet to be written down resolution number 4 in which the city officials subject to this resolution are defined. City councilmembers and employees themselves, the auditor, the clerk and municipal.

So with respect to those specific individuals, are they city officials or do they also fit under how we would define city employees? I guess it's a little confusing to me.

I think the intent of councilmember spelman's amendment is this resolution applies specifically to (indiscernible). Stipulated there.

Mayor Leffingwell: Councilmember riley.

Riley: Let me ask a question about the proposed language on paragraph 5, those serving on boards and commissions, and in particular the decisions to which this would apply. I think the language you just read said something about decisions that cannot be appealed to the city council.

Spelman: We have sovereign boards and other boards which make decisions which we do not have a chance to second-guess. It can only be second-guessed by a district the phrase we often used when I was on the board and commissions taskforce when I was on there several years ago is the boards make decisions which may not be appealed to the city council. They make a final decision and then you go to the district court if you don't like it. He.

Riley: Can you state the language again?

Spelman: The city clerk is directed to develop a policy regarding conduct of city business on personal communication device busy members of city boards and commissions that make decisions that may not be appealed to the city council. So if the planning commission would qualify, the animal advisory commission would not qualify.

Riley: Okay. Thanks.

Mayor Leffingwell: Councilmember, I'm not so sure of that. I think probably nearly all decisions that the planning commission makes can be appealed in some way or another.

Riley: I believe there's one class of decision the planning commission make on subdivision permits which are not appealable to the council.

Mayor Leffingwell: Bike plan approvals, for example, those are final unless they're -- they can be appealed to the council and doesn't happen very often, but often they're final. City attorney.

Decision approval is planned by planning commission or zoning and platting commission and they are not appealed to council.

Mayor Leffingwell: Yeah. I think that I said that site plan approvals, some of those are appealed, right?

Yes.

Mayor Leffingwell: Okay. So they do have some sovereign authority that could be appealed to council, but otherwise unless it's appealed it's final.

Spelman: I guess all it's getting at is zoning and platting commission would apply as it's currently written we would have to come up with a procedure for personal communication devices for planning commissioners.

Mayor Leffingwell: Yeah. I was just going to suggest that maybe more appropriate language and see what the city attorney thinks about this with boards and commissions that have sovereign authority. And that would -- that would cover boards that do have -- can make decisions that are final unless they are appealed.

We do generally talk about those types of final decision making boards as boards that have sovereign authority.

Mayor Leffingwell: It probably would include more boards and commissions if we did it that way, but not many more.

Spelman: If it's clearer to the council, that's fine with me.

Riley: Mayor? Mar mar mayor?

Mayor Leffingwell: Mayor pro tem. I wanted to make the comments to whatever the city manager might come up. And my personal feeling is obviously I totally believe that everything that we as a council do as policymakers should be subject to all public information. My concern with going down to all 12,000 city employees is I want us to keep in mind that we cannot shut down the day-to-day operations of the city. And if a work crew is three blocks down the road and they want to send a text message to the other crew member to say, hey, can you bring me this tool or whatever, I mean, that's day-to-day operations and that's what makes this city great and that's what makes it work. Technology is helping us in that regard. What I'd hope we do is understand that and not create these major unintended consequences where our workforce is severely impacted.

I appreciate the mayor pro tem saying that. Of course you know that's my concern and a cautionary note that I've offered to council. So I will certainly be mindful of that as we move. I also wanted to cover on the same line, so as we may come up with a policy for all city employees, are there exceptions for things like public safety and investigation information?

I think that's really going to be in the -- under the purview of the city manager as he develops a policy applicable to employees. So I'm not going to speculate on that. But I don't know any reason there couldn't be. I'm asking is one of the 40 exceptions to the act, does it cover things like investigative matters, public safety matters?

Yes. Keep in mind that the process being envisioned is first taking now what is either not or arguably not public information and then making it public information by putting it on the city server or city system. At that point all 41 of the open records act exceptions would be potentially applicable to it. So anything that would not be released, if it began as city information, would not be released just because it came from a private system, went into the city system and became public information. thank you, mayor.

Cole: Mayor, I have a question. kunard want to answer this or miss morgan or both, but I want to make

sure that we're giving very clear direction on our cost impact analysis. I know the attorney general's office or the open meetings act and the open records act has provisions for city to seek reimbursement in the production of documents or compliance. Can you explain what those are and how that works? Yes, councilmember. The public information act allows for some cost reimbursement. It doesn't allow for full cost reimbursement. There are rules that have been adopted and there is a division in the attorney general's office that we work with in determining how much you can seek in cost reimbursement from a requester. And so we follow those guidelines. If it's going to be paper that you're going to be copying, they've said how much can you charge for that. If you're going to have to manipulate data, they've set some costs for staff time and what type of staff you can charge for that. So yeah, there are very detailed regulations that the attorney general's office has and the staff that's available to work with governmental entities on making sure we comply with those costs reimbursement rules.

Cole: So are we seeking cost reimbursements and under what circumstance?

We have a general policy, councilmember. We follow first of all the guidelines --

Cole: Are we seeking cost reimbursement for every one of our lawyers that have spent time on lawsuits in connection with compliance with the open meetings act?

That's not allowed.

Cole: That's not allowed.

No, ma'am.

Cole: Because the question is to try to look at this from not just my viewpoint, the taxpayers' viewpoint and for them to know. We never want to give the impression that oh, it's too expensive to comply with the open meetings act or the open records ablight, but we also don't want to give the impression that producing these documents and changing the policy and the ever complex nature of it is totally free to the taxpayer because they might want to change the way that they want to see our ordinance work or even at the state level. So if attorneys are excluded and our attorneys probably bill on average between what and what per hour?

You're talking about our outside counsel?

Cole: Outside counsel.

On this particular case, I don't want to insult anybody, I think the rates are 380 to 425, I think.

Cole: Okay. The only reason I said that is again I just think the public has a right know. And I think our legal staff has been absolutely swamped. Have we hired any new additional staff in the last three months to deal with the public information request that we've been doing?

We haven't hired any additional staff, but we have taken on temporary staff. We had a law clerk that we had last summer who came in and has helped us. We've just redirected our resources away from other issues to deal with these issues right now.

Cole: Okay. Given all that and the exceptions that must exist in the act for what you can be asked it to be reimbursed and what we know right now in addition to ha what this policy will do and probably broadening of the policy that will be done by this council, I'm going to ask that that also be included in the resolution, and i Morgan or both, but I want to make sure that we're giving very clear direction on our cost impact analysis. I know the attorney general's office or the open meetings act and the open records act has provisions for city to seek reimbursement in the production of documents or compliance. Can



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Cole: Okay. Given all that and the exceptions that must exist in the act for what you can be asked it to be reimbursed and what we know right now in addition to ha what this policy will do and probably broadening of the policy that will be done by this council, I'm going to ask that that also be included in the resolution, and i guess I'm just simply asking that the cost impact analysis include all city and outside personnel that we can estimate may be involved in implementation of the policy, and is that too broad? Does that drive you crazy? Talk to me, city attorney. I saw your face like wow.

I just want to be sure that you know that when the legislature set up the public information act and adopted those cost reimbursement procedures under the act that it wasn't intended that the governmental bodies to some extent subsidize that. So we will never be able to recoup all of our costs. It's just built into the act that way. And the rules that have been implemented to adopt those provisions will never allow for us to recoup all of our costs. So it's difficult -- we can of course track what it's costing us, but from a legal perspective that act was not intended to allow dpomplet al entities to recover all of their costs in providing public information.

That was great information and I guess i was looking at it from what you just said, and also the other way, which is I'm not surprised that the legislature passed an act and did not anticipate that they would have to pay anything in connection with this implementation. But the reality is that we do, and I'm wondering if there's any way possible for us to get some kind of estimate just of the policy that we're enacting, which it looks like will only apply maybe to boards and commissions and to the councilmembers and probably not their aide at this point. Is we have had some requests for that information in the past and we can provide that maybe to the full council or audit and finance and just estimate that dollar cost.

I think we can try to do that to keep track of whose working on these requests and how those costs impact these requests? Requests.

Cole: Thank you. I think the citizens need to know. Thank you.

Mayor Leffingwell: I think we have a motion -- a motion on the table, which is been amended several times, has five resolves. I think we're clear on all of those except perhaps number 5. I think the question was left open about the 30-day report back. Did we make a decision on that? Is that what you want is 30 days or do you want to consider a longer --

Spelman: Allow me to read the line I've got on item five for your benefit. Be it further resolved the city manager and the city clerk are directed to work with the communications and technology management department to estimate implementations of all policies developed pursuant to this resolution. They have to report back to us within 30 days and presumably they will work with ctm (indiscernible).

Mayor Leffingwell: That is the entire number five that you just read?

Spelman: That's all of five that I got. Is there something that i missed? Please feel free to let me know and I'll add it.

Mayor Leffingwell: I thought number five was the paragraph that dealt with boards and commissions.

Spelman: I'm sorry. I lost track for which is four and which is five. There's a previous paragraph on boards and commissions. I'll read that again if you like. Be it further resolved the city clerk is directed to develop a policy regarding the conduct of city business on personal communication devices by members of city boards and commissions with sovereign authority and report progress to the city council within 30 days.

Mayor Leffingwell: Okay. You believe that 30 days is a reasonable period of time? If so, I'm fine.

Spelman: I'll we're asking is a report on progress.

Mayor Leffingwell: That's good. So I think we're clear on what we have now. Finally. Is there any further discussion? All in favor of the resolution as amended say aye. Opposed say no. It passes on a vote of seven to zero. Let's go to item number 65. Number 65 is pulled by councilmember spelman.

Spelman: Mayor, we have a good discussion on this item, although a short one. It was a very productive discussion on tuesday. And after the discussion, councilmember morrison and i have prepared a version of the -- actually two versions of the resolution which respond to some of the issues which came out in that discussion. And as soon as I can find the break point in my handouts, I will hand out both versions as amended to the resolution and walk through what differences there are between the original version and -- have you got both of those? The first one going around -- one of them going around, I'm not sure which is which at this point -- would provide at least for this first year that the review of departments be conducted on a committee by committee basis. That the committee is actually engaged city staffs in the issue of prioritization and horizon issues. The second version coming around would have that discussion be conducted by the entire council at a work session. In addition, there are a couple of other significant changes to the resolution which again came up as a result of our conversation on tuesday. We added a resolved which includes the -- an annual policy discussion retreat which would occur in january. This was your own suggestion, mayor. I thought it was a good one and it's now in both versions of the resolution. It extends the deadline for departmental level briefings from april 30th on a regular basis, which is extremely aggressive, to may 15th, which better aligns with the budget calendar produced for us by the city manager. It adds additional flexibility for the council to choose each year which departments will be presented. And again, in which forum the presentations are made, either version a to the entire work session or version b to the council committees. This is something which we'll certainly have to work out for this year. But in future years we could work out on a year to year basis on to which form we would prefer. It eliminates from this year's department presentations, a few too many of them, even if we decide to do this in committees. So the -- both versions eliminate from the department presentations, public works and e.m.s. Of course the council could put them back in or add any other department fz it so pleased. And again, we have two versions, one for work sessions and one for committees. Rather than make a motion on this issue, I would prefer, mayor, for us to have an open discussion on the issue and if somebody would like to make a motion or one or the other or neither of these drafts, then that would be fine.

Mayor Leffingwell: Let me just say that it's kind of tough to do a little speed reading on both of these and really do a thorough analysis on what the differences are. I would like -- since this is mainly going to impact as far as work load and scheduling priorities for the city manager, I would like to get his comments on potential problems that may or may not be in either of these versions.

Well, as councilmember spelman indicated, we had some substantial discussion about this during the work session. These two versions of the resolution, I guess I'm just seeing it and so my reaction, mayor, is similar to yours. It's hard for me to answer your question in light of the fact that I've not spent any time with these. So rather than responding, my hope would be that councilmember spelman and the council as a whole would be willing to give us probably as well as yourselves some time to consider what's being proposed here and both of these resolutions. I just don't -- I don't know enough about them, having looked at them, I'm just not in a position really to react. But I am concerned, as i understand during the work session, about the impact that it could have on my responsibility to develop a budget recommendation for the mayor and council. These are already a number of -- a number of time requirements that we have to meet that are part of the budget, budget calendar. As I indicated, you know, when we complete a budget and you all adopt it, not long after that -- we're starting at some level the next budget process, so that schedule is very, very tight. So I'm less than inclined to react off the cuff to what's being proposed here.

Spelman: Mayor?

Mayor Leffingwell: I was going to say, councilmember, could you highlight what the changes are from what we discussed in the -- perhaps that would be helpful.

Spelman: Highlight physically with like a yellow highlighter?

Mayor Leffingwell: No.

Spelman: Sure.

Mayor Leffingwell: Orally highlight.

Spelman: Sure.

Mayor Leffingwell: Perhaps you could tell it how it's different from the original draft.

Spelman: First the changes have been underlined so they're easier to see than they otherwise would be. Other than the whereas, the first practical change is in the first be it resolved, which is entirely new and responds to your own recommendation, mayor, of an annual policy retreat in January. This would call for an annual policy retreat each January in order to discuss broad policy objectives with the city manager in his or her staff and discussions would include highlights of successes, challenges from the previous year and broad policy objectives for the future. It of course would not include any numbers. We wouldn't have any of those at that point. The second important change and actually the second change would be in the first be it further resolved, changing the date from April 15th to May 15th. April 15th always seemed a bit regressive and given that we will not have -- cannot count on getting horizon policy updates or unmet needs report before early April, April 15th seemed entirely too aggressive. May 15th seems much more reasonable. On the third page a few small changes in the highlighting exactly which eliminatemements of the city manager's budget calendar, which deliverables would be required and would be helpful for the council as it entered into its discussions with city department staffs regarding its priority scheme. It focuses more on the deliverables as how lined in the budget calendar and less on contents of them. Just to make it sure what it is we're talking about. Item 3, identifies that the briefings could be either conducted in full council work sessions or in council committees. And this depends on the number of presentations to be made. Item 4 was an item in which the chief financial officer, broader, had a suggestion about, which I'll pass along. The current version of the draft, that was drafted again before we heard from broader this morning, has the council notifying the city manager as to which departments we would like briefings from. And ask the city manager to recommend if any additional departments need presentations. broader has a suggestion which I am now handing out that we would be asking the city manager for any additions. That puts the ball in the city manager's court. The city manager has a lot more information as to the horizon issues, the unmet needs and the performance measures than we do. And it makes more sense for the manager to be the first person to make that recommendation rather than for us. I think it's a very good suggestion. I would happily incorporate this in any subsequent version of this resolution.

That particular change was something that was recommended by the law department in looking at the city manager's authority under the charter and just making sure that discussion we had a little bit on Tuesday about the method and the means is to try to make sure that we don't confuse those two. So we gave input to the CFO on how we thought we could stay outside of those -- stay within the parameters of those provisions.

Spelman: Then I will ask Miss Browder to share credit for that with you. I think it's a very good idea. And item 5 again there are two versions. Both of these versions only covered the current fiscal year and presumably we would have a different resolution in subsequent fiscal years, which would identify both the method, whether in a work session, or by committee. And the names of the individual departments we would like presentations on. One version again has just a list of departments. Another version of this has a list of departments and assignments to individual committees in the city council.

Mayor Leffingwell: Can we refer to one of these as proposal number 1 and the other one -- I don't see them identified here.

Spelman: I think it would be an excellent idea, mayor. My apologize for not having marked these up as

proposal 1 and proposal 2. Perhaps since it's in front of me, we marked up proposal 1 as the 1 which assigns all of these presentations to council work sessions. If you wouldn't mind, i would call that proposal number 1.

Mayor Leffingwell: I see the immediate difference that I see is a difference in paragraph number five under resolve.

Spelman: Exactly.

Mayor Leffingwell: So which one is which, using that as the --

Spelman: The one that says for 2012011 only. The following departments will be presented to council in work sessions. That would be proposal number 1. And the other one says for fiscal year 2010-2011 only, department presentations will be scheduled to may 30th and ass committees. That would be proposal number 2.

Shade: Mayor, i appreciate the continued work on this and appreciate the additions that were made. I certainly support if folks want to postpone to take more time with it, that's fine. I -- I'm really supportive of this and I appreciate the work on it and prefer the work session version, i guess which we're calling number 1. And the reason for that is that in any work session if there's something more that we want to delve in to, we can always send it to a subcommittee for discussion. There's nothing that would preclude us from doing that. That way at the top level, every councilmember will have the opportunity to participate and in addition to that I think that those are already built into our schedules. So having somebody juggle their schedule to make it to the judicial meeting might make it more difficult. This way you get the top line. I prefer the work session, and again I'm appreciative of the effort. I support it.

Mayor, I have a couple of comments.

Mayor Leffingwell: Councilmember cole.

Cole: I agree with the work session because I think we all need to be present and I certainly support this concept and councilmember spelman for his work. And I especially like the paragraph about the city council will conduct an annual policy retreat in january in order to discuss broad policy objectives. My only concern is that which comes first? Do we say what our policy objectives are and then ask the city manager? Or does the city manager tell us this is what I'm funding and then we go off and say these are our policy objectives? So I'm concerned about that. I'd like to make changes to that paragraph on two fronts. One is I think that we need to be having not necessarily a retreat, but a full work session analysis with all of us more than once a year. I'm thinking that we should try quarterly. And the reason I say that is because this year alone we have done waller creek, we've voted out a multimodal bond package. We're spending serious sums on potential rail. We have voted out water treatment 4 again, a good section of that. And I think it would have been nice to put whatever -- the comprehensive plan, those three to five items on the screen and said, guys, let's talk about this before we ever turn to the city manager. So it sort of feels like we're saying to the city manager and financial staff, you need to give us this, this and this and do these, these better. And we haven't done a quarter of the analysis or work that we're supposed to be doing to make their lives easier. So I guess -- all of that being said, councilmember spelman, I need you to help me with this. I'm a little nervous and i guess maybe I need to ask leslie to come up here. I'm also a little nervous about the process that we go through with the work session and the breaks and the september 3 readings and trying to -- is this information that we're going to have any way and I'm just not seizing -- I know we do the five-year forecast, the annual performance report. I don't want us to pass something today that is going to impact the budget process right now and in any way slow it up or make it more difficult than it has to be.

Well, I think our goal is to -- based on the discussion that we heard on tuesday at the work session and what we're talking about, we have a clear sense of the kinds of information that you all would like to

make better policy decisions, and pa basically better equip you as we move into the budget development season. Our primary concern is that we have the flexibility to really schedule those deliverables and think about the most logical fashion that they should occur in. And so the suggestions that we have made were designed to let us have that flexibility while still being responsive to you. So for the work that you're going to do for this year's budget, the type of -- what we started out calling retreat or council direction or policy discussion is not going to really impact that. Is that correct?

Are you talking about the january retreat?

Cole: I guess what i was trying to do is see if we could have that discussion earlier and impact -- you're trying to impact this year's budget, right?

Spelman: Trying to do two things here. One of them is set up a mechanism for us to put the council into the budget calendar a little bit earlier than it usually gets there for future years. And the other is to put the council in to the budget calendar this year. And the original version put us in for this year. This version adopts the policy that the council will be involved in discussions with city staff at department level before the budget itself is actually -- before numbers get entered into a spreadsheet just to discuss the unmet needs, the horizon issues, many other important priorities before we actually get a budget which starts to set in so it does actually both of those things.

Cole: So what if we have our policy analysis, our first one on the same date, may 15th. And we just plan to -- to post that accordingly, but I'm thinking we will bring the major items that are on the horizon and just have some preliminary discussions about those. And I'm hoping that leslie and greg, the city manager, I'm wondering how difficult it's going to be for you guys to -- for us to just say are we -- we've decided that we are going to do the comprehensive plan, and that's three-quarters completed and it's on time and on budget and there's really no problem with that. We vote odd water treatment plant 4. It's on track or on time or not on track or not on time, and we estimate it's going to cost an additional two million dollars. And in my mind we have about five items like that. And it's just -- it's too scattered of the information that you give us a lot of times is great, but it's very detailed and it doesn't seem like we're making comprehensive decisions. And that might be a separate issue for audit and frnts or it might belong in here. I don't know. So I'm looking to you and the city manager for any comments or guidance.

And I think just in terms of the -- kind of the broad policy planning that is contemplated in the january retreat just in terms of timing, typically what we do when we start each new fiscal year is our departments actually start doing their business plans and they're strategic planning probably in the december time frame. And so again I think where we were kind of hope to go get flexible language related to the schedule so we could kind of think about how much that would interplay and sequence it in the right order. So that's just one consideration.

It makes more sense, we pass a budget in september. The new year starts in october. So this january date makes perfect sense to really start --

or it might make sense to back that up a little bit so that we know what the general policy direction is before the business planning begins.

Cole: November 1st.

So it gets back to trying to get a little more time to consider this and the order that it's occurring in and possibly bring that back if that would work. Spell mayor?

Spelman: Mayor? Not anticipating that this discussion would appear half a relatively long markup session on the previous resolution, I think anticipating that there might be a little details to work through, I was still thinking it might be a good idea for us to postpone action on this item for a couple of weeks. I

think it's helpful for us to have had the discussion we've had so far, however, and if it's the will of the council, I will be happy -- councilmember morrison and i would be happy to take this off the table, withdraw this for now, bring it back in two weeks, incorporating the discussions we've had and with further information from the city manager and from the chief financial officer.

Mayor Leffingwell: Is that a motion, councilmember?

Spelman: Perhaps we should postpone rather than withdraw. If we could postpone for two weeks.

Mayor Leffingwell: Councilmember spelman moves to postpone for two weeks. Seconded by councilmember morrison.

Cole: I will be -- [ inaudible ].

Mayor Leffingwell: If i may, I want to say that i appreciate your work on this and I appreciate the spirit of it. I am -- most of this I'm very -- I'm fine with right now. But I think the parts that apply beginning with item 5 that apply to this fiscal year only, it's going to be difficult to integrate that into a schedule for this year. But I think it's very appropriate to begin looking at the process for next year. At's just a comment. But I'm going to support your motion to postpone.

Spelman: I will make sure any further conversations I have with broader and the city manager that we ensure that anything that we do this year is going to be something which we can integrate with our current things.

Mayor Leffingwell: Further comment? All in favor? Opposed say no. Passes on a vote of six to know. Mayor pro tem off the dais. So council, we have just a couple of minutes here. I think that -- I think if we can at least get through our consent items on the zoning cases, two p.m. Zoning cases. Mr. guernsey.

Well, mayor and council, greg gurn six planning development and review department. Actually, all the items i have are consent. I will go through them very quickly. Item number 75 is case c-14-2010-0145 for 4207 river place boulevard to zone the property community commercial gr district zoning for tract 1 and urban family residence for tract 2. The zoning and platting commission granted -- recommended to grant gr-co combining district zoning for tract 1 and sf-5 district zoning for tract 2. This is ready for consent approval on all three readings. And I need five councilmembers.

Mayor Leffingwell: Did you just read item 75?

I have more.

Mayor Leffingwell: 76, okay? Okay. I didn't catch that. We'll have to make sure that we have five. So I'm going to ask -- i guess the city attorney is the one to get back and say we have to have them back out here. Go ahead with the reading of the consent.

Item 76 is case c-14-2010-0174 for the property at 13400 briar wick drive much this is to zone the multi-family residence moderate high density zoning. This is ready for consent approval on all three read. Item number 77 is case c-14-2011-0002,. This is to zone the property to multi-family residence highest density conditional overlay combining district zoning. The planning commission's recommendation was to grant the mf 6 co combining district zoning. I'll just note that the ordinance that you have on the dais does not include recommendations that address heritage tree or sidewalks. Those are actually already part of our code. The applicant has agreed to install a sidewalk and also agreed to remove the heritage trees on this property, but since those items are already part of our city code and would be triggered at the time of site plan which I understand from the applicant will be in 60 to 90 days, those things will be

applied at this time.

Mayor Leffingwell: guernsey, you know we have three speakers on this item.

I think all three speakers have left. They were from the zilker neighborhood. They were hopefully emailing you by your city web address and that you may have comments from them already.

Mayor Leffingwell: We won't look at them until tomorrow.

Very good. I think they have all left.

Mayor Leffingwell: We'll call their names in.

And the last item I would offer for consent is c-14--2010-200. This is for indefinite postponement. We will renotify if this case is placed back on your agenda. That concludes the zoning items I can propose at this time.


Mayor Leffingwell: So you're proposing consent for first reading for 77?

All three readings for stiff, 76 and 77, with an indefinite postponement on item number 78.

Mayor Leffingwell: Can I ask if any of these folks are in the chamber and still want to speak? Lorraine atherton. Not here. Andrew elder? Is not in the chamber. Gardener sumner? Not in the chamber. So we have no speakers on this item. So I'll read back the consent agenda to you. It's to close the public hearing and approve on all three readings 75, 76 and 77 and to postpone item number 78 indefinitely. That is the consent agenda. I'll entertain a motion to approve. Councilmember spelman, councilmember riley seconds. Discussion? All in favor say aye? Opposed say no. It passes on a vote of six to zero with mayor pro tem off the dais.

Thank you. That concludes the items for zoning this evening.

Mayor Leffingwell: Thank you. So council, it's now time for our live music and proclamations. So we are in recess until after those are completed. We'll come back and deal with the final items, 79 and 80.

Mayor Leffingwell: We have a special treat tonight. We have music for this saturday night's opening for the austin lyric opera flight. Actually sung in english, i am told, which is good or bad depending on your perspective on opera. The -- our producer is here with us tonight. Would you stand up, please? Thank you. [ Applause ] so representing the austin lyric opera today is liz cass, who was most recently seen as flora in la travita and as the witch and the mother gertrude in hansel and gretel. Let me say that I was proud to share the stage with miss cass in la travita. I won't say -- describe the extent of my role, but I was there, let me put it that way. The larlt performance brought her an austin critic's table award nomination. Miss cass also produces and stars in austin lyric opera's opera unplugged video series as well as her own opera lady video series. Coming up next, of course, as I said, is flight, composer jonathan dove, here today just stood up along with the general director of the austin lyric opera, kevin patterson. Kevin, you get to stand up too. Would you do that for us? He does a great job. [ Applause ] so flight will be at the long center on april ninth, 13th and 15th at 7:30 p.m. I hope you have a chance to go out and enjoy a great performance. Now help me welcome liz cass of the austin lyric opera. Liz? [ Applause ]  [ applause ]

Mayor Leffingwell: Wonderful. Thank you. That was wonderful. We want to acknowledge you with a proclamation. On behalf of the city of austin, be it known that whereas the city of austin, texas is blessed with many creative musicians whose talent extend to virtually every musical genre. And whereas our musical scene thrives because austin audiences support good music produced by legends, local



favorites and newcomers alike. And whereas we're pleased to showcase and support our local artists, now therefore i, lee leffingwell, mayor of the city of austin, texas, the live music capitol of the world, do here by proclaim april 7th, 2007 as austin lyric opera day in austin, texas. Congratulations. [ Applause ] so jonathan, can you come up, please? So we just saw what you're capable of doing, composing for liz cass, wonderful artist. And now we want to acknowledge you as the mentor and the originator of this work and congratulate you on this opera that we're having during the next week and we have a proclamation for you. Be it known that whereas austin is pleased to welcome jonathan dove, one of britain's leading composers for opera chamber music, theater, dance and the community arts groups and dove has written works to coordinate, to celebrate building openings about an astronaut's trip to the moon, the work based on emily dick enson's poetry, music to celebrate mozart and an opera about the death of diana, princess of wales. dove's offer of flight about the daily life of an airport is being performed on april ninth, 13th and 15th at the long center for performing arts. Now therefore i, lee leffingwell, mayor of the city of austin, texas do here by proclaim april 9th, 2011 as jonathan dove day in austin, texas. Congratulations. [ Applause ]

I just will tell you a little bit about this opera that we're talking about. It's called flight. And which is a comedy set in an airport, so you can tell that it was written in more innocent times, before 9-11 when it was possible to celebrate the joy of flying. It was actually inspired by a very strange and rather sad true story of the refugee who lived in charles de gaulle airport for about 18 years. But comedy comes in our piece after these encounters with all the people that he hopes will help him into the country, his attempts to get them to help them, the ways in which he challenges them and during the course of a night in which everyone is grounded during electrical storms, everyone experiences a kind of transformation. So it's -- a little comedy with a serious heart to it. I'm thrilled that it has come to austin and delighted that I've been able to come here to -- that the austin lyric opera has brought he to witness it coming to the long center. So I hope you will come and enjoy it. Thank you. [ Applause ] mayor mar it's my pleasure to welcome our tibetan community to austin city hall. This is the sacred earth and healing arts days. We have a whole group of people behind us who will be helping us celebrate these days and have a proclamation to read in their honor. Then I'll let one of -- would one or more of you like to come up and say a word after we read the proclamation? And maybe councilmember morrison would like to say something also. And whereas austin's tibetan community have contributed to austin's culture and quality of life for the past 20 years and whereas we are pleased to welcome monks from the monastery who are visiting our city as part of tour to spread peace, harmony, compassion and tolerance through cultural exchange and interfaith dialogue. And whereas the monks are nearing completion of a sand mandala in the atrium that has drawn hundreds of citizens to witness its creation and learn its less imerm unanimous. Whereas the mornings are also on a humanitarian mission to raise funds for the education, maintenance and housing and medical school for their monastery, which is located in the tibetan refugee settlement at momgood, india. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim april 7th through the 14th, 2011 as vai cred e -- sacred earth and healing arts week in austin, texas. [ Applause ] and I'll present this certificate to -- are you going to speak?

Yes.

Mayor Leffingwell: We'll let councilmember morrison say a couple of words first.

Morrison: Thank you. It's been a real honor to host them this week. And if you didn't have a chance to experience the amazing peace and tranquility that they brought to city hall as they were working on the mandala. And I do want to thank them for bringing that to city hall because sometimes it gets a little stressful here. You know, it really brought everything to ground level. And I did want to announce -- I'm sure you will hear more about it, but that tomorrow, friday, at 30 there will be a ritual taking apart of the mandala and folks that can join everybody here will be part of that, will be giving a grain of sand and the rest of the sand is going to be dispersed into lady bird lake. So it should be really wonderful. That's at 5:30. There's also going to be a blessing of barton springs pool on saturday and then a couple of performances this weekend. So I just want to thank these folks for coming and joining us. Thank them for their good work and in terms of supporting their community in india with their fund-raising on the tour

and then turn this over to joe pell.

Thank you so much, mayor and councilmembers. On behalf of all the monks, we do want to extend our deep appreciation. This is such an honor and a joy to be able to share with all the people of austin this incredible culture of kindness and compassion that I was able to discover many years ago myself. So there's six of us here today, but we represent a thousand monks. That live in a refugee settlement deep in the south of india. This monastery, the first monetary of tibetan biewdism has been able to keep its tradition alive even in exile. There are 28 monks that went there in 1969 to manifest over a thousand monks and preserve this ancient tradition. And this willingness to the dalai lama has allowed the monks to come out in the world and share it to people, and we have been coming to austin now for over 20 years. So this is a relationship that we're so happy to nourish. The springs that we're so happy to bless every year i think is just a continual sort of seeds of growth of the compassion and kindness that we hope to manifest as we travel throughout the country. And here in austin it has been incredible to meet people of all shapes and sizes, cultures and religious traditions we've been able to share with all the faiths at the asian american cultural center. We will be doing a dinner at the local mosque. We'll be doing a dinner at the local jewish temple. And then we'll also be doing john's methodist. So all shapes, sizes, cultures and traditions right here in austin. It's really an honor to be able to share with all of you. We hope that we get to know more of you as time passes. Come by and visit. Thank you so much for your kindness. [ Applause ] there is one other thing. We are going to give you something, okay? So in the tibetan tradition, it's all about giving. So we are actually going to have the lama, he is going to give you a cata, this is a tibetan offering scarf. It is white symbolizing the purity can which it is intended. He's going to place that over your heads and give you a blessing. The cata has the eight aws pishes symbols of biewdism as well as tashi delay, it's the most polite way to say hello and good-bye. But it really carries a meaning of may all things are aws pishes. Tashy delay. And one of course for comob. Councilmember morrison. She is the one who sponsored the mandela in the atrium and this symbol of compassion here in austin. Again, thank you both if you can give them both a hand, that would be great. [ Applause ]

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Morrison: For more information there's a website, [www.tibetamongsttour.org](http://www.tibetamongsttour.org). If case anybody is interested, I did not get the memo, just happened that I wore the same color as the monks today. [Laughter]

Mayor Leffingwell: Pleasure to have with us today here a very valuable part of our city of austin team, the folks who work on health and human services issues, led by shannon jones here who will say a few

words after we honor them with this proclamation. This is national health week. And this is what this is all about. These are the folks who work for the city that have the most to do with this subject. So -- so the responsibility and the honor is all yours. Proclamation reads as be it known that whereas each year nearly 150,000 people in the u.s. Die from injuries and almost 30 million people are injured seriously enough to warrant a visit to the emergency room and whereas national public health week with the theme safety is no accident, live injury -- live injury free emphasizes the need for active initiatives such as wearing seat belts, wearing helmets and utilizing properly installed child safety seats. Whereas we acknowledge the effort of austin travis county health and human services department in educating, promoting and protecting the health of our citizens as our community engages in preventive steps to increase safety measures and decrease the likelihood of injury, now there are i lee leffingwell mayor of the city of austin, texas do hereby proclaim april 4th THROUGH THE 10th, 2011 AS National public week in austin, texas. Congratulations to all of you and give yourself a big hand. [ Applause ]

shannon? A couple of words?

Thanks very much, mayor. I would like to knowledge the team from health department who are here to join me in acknowledging the great work we do in public health. We want to remind you that public health is also a very important except of public safety. What is easily seen and more readily known in our great preparedness team were such things as disaster, hurricane preparedness, math, shelter, medical special needs. Preparedness for potential toxic exposures such as anthrax, preparedness for mass illness such as h1n1, we must remember, also, that public health is also in a greater part the unseen and what we sometimes take for granted in our healthy communities and societies and local communities. Such things as childhood immunizations, which provides protection for measles, mumps and polios, food inspections for restaurants, farmers markets and food trailers. Public pool inspections, smoking ordinances and education to protect air quality and personal health. Car seat education, bicycle helmet education and safety. Safe walking and biking to school and workplace safety for adults. All of these encompass what we do in public health. Public health has an incredible scope and role in making our communities safer, that includes basic needs, homeless assistance, mentoring, education and support for at-risk youth. Mental health and substance abuse and workforce development. By investing in our community through public health, we make our communities much stronger, not only today, but through theout our future. We are fortunate to have the support and strong partnership with our city council, with travis county, and of course especially with the community. Thank you so very much for this proclamation. [ Applause ] so we're here tonight to recognize the friends of barton springs pool again for their second annual triathlon. I don't know does it involve swimming across barton springs pool or length wise?

Across the width. I think we're talking my speed now.

That's the idea.

You guys do so much good work, friends of barton springs for the last few years to help us upgrade, rehabilitate and make barton springs a better place and it hasn't fallen into disrepair and so forth over the years. Thanks to your efforts, we're trying to correct those problems right now and -- I'm -- hopefully, I'm very confident that -- that barton springs will be a much better place, a much cleaner place, in the future when these efforts are completed. But actually that has nothing to do with or very little to do with our triathlon and how far do you have to run if.

Basically one lap around the park. 250 Yards, very short distance.

250 Yards a feet of swimming and then a bicycle, half a mile biking. Okay. Well, it sounds tough. [Laughter] so -- so we'll look forward to that. Anyway, I want to thank you very much for your efforts and of course all of the friends of barton springs who have done such great work, as I said over the last few years. So I have this proclamation. Be it known that whereas the friends of barton springs pool are sponsoring a fun triathlon event to celebrate austin's sacred playgrounds, barton springs, and to help

raise funds for their bath house restoration project. Whereas tree athletes will swim across it is pool, bike a short lent, run a short course around the polo fields and end up at the christmas tree area for refreshments and live music and whereas organizers hope to introduce kids to the joys of barton springs pool, educate families about the park and give kids a manageable triathlon, I like that word manageable, experience during this family oriented event and whereas triathlete registration includes the added benefit of one year membership with the friends of barton springs pool. Therefore I lee leffingwell mayor of the city of austin, texas do hereby proclaim APRIL 30th, 2011 AS THE Second annual barton springs pool triathlon day in austin, texas. Congratulations.

Thank you.

Did you want to say something?

I have the distinct honor of leading off the tree-a-thon last year and being the lead swimmer across the pool, although i wasn't the fastest by any means. It was a totally fun family event. I really encourage folks to come out. Mayor, I want you to know that I would be happy to turn over that lead swimmer to you this year if you would like. Mike cannati.

Mike, go ahead.

Well, thank you very much, mayor and councilmember for the proclamation. It was interesting to hear the earlier presentation of the monks bringing spiritual blessing to the pool. Part of what we are trying to do is bring financial blessing to the pool. City staff works very hard to protect the pool and the public just loves the pool. I didn't really want to show off and bring the entire public of the city of austin up here for this proclamation day. But we all love barton springs and in fact it's being loved to death. We need to help supplement the work that the city ask to protect it. City does to protect it. Last year we had the first tree-a-thon, we raised 7500 bucks for the trees and pool area, they are just starting to work the plans on it now. Hoping to repeat the success with generous sponsors, we already started to line up some. We also encourage people to come out and sign up. Go to [www.friendsofBartonSpringspool.org](http://www.friendsofBartonSpringspool.org). You can sign up there. We welcome sponsors, hope everybody can come out and it will be a lot of fun, i promise you, we're really looking forward to it. Thank you. [ Applause ]

Mayor Leffingwell: Thank you. I just want to mention, also, which I didn't mention before, but this is an official let's move austin event. A series of events throughout the city sponsored by different organizations that help us achieve the goal that we're trying to achieve by the end of this year of making austin official let's move city. We appreciate the let's move appreciates the many organizations who have contributed, so far, to the success and look forward to participating with many more folks throughout the rest of the year. So thank you all. [ Applause ]

Mayor Leffingwell: I will turn it over to councilmember shade for a proclamation.

Shade: Well, I am very honored, mayor pro tem martinez has a sick child so he was really disappointed that he couldn't be here today to present this. And I know you understand, but I was really honored that he asked me specifically to present this to you. I'm going to welcome up the texas spanish newspaper of the year and let me read the certificate of congratulations and then I'll let you all come up and say a few words. Welcome. Certificate of congratulations for having been named spanish language newspaper of the year for is deserving of public acclaim and recognition. Each year the texas associated press managing editors join with the ed liners foundation of texas to recognize outstanding journalism as practiced by the state's daily newspapers. The newspapers are judged in their writing, design and photography. We are pleased to congratulate the staff of published by the austin american-statesman on this honor. It is a tribute to the passion and high standards that the editorial staff bring to their work that was selected as top spanish newspaper this year. This certificate is presented with our congratulations on this 7th day of april in the year 2011 and again my deepest congratulations and

thanks for your work.

Thank you. [ Applause ]

thank you, councilmember. Thank you, councilmember randi shade. We appreciate the recognition. It really is a -- an honor to be recognized by your peers in the industry of the newspaper business and journalists and to be recognized by the city in which you print, you write stories about, you educate, you motivate, you inspire the latino community, it's just another honor of on top of that. We thought we had really accomplished something really big by being recognized by the city makes a big difference. This newspaper was started in 2004 to do a couple of things, motivate and educate and let the latino community learn how to navigate around this city and to be educated on the issues that affect our lives each and every day while also pursuing a better quality of life. This very small staff led by editor josefina villcana , reporter gisella santa cruz, a few other folks are here, not all of our team is here, do an incredible job in covering the issues that affect the lives of latinos. Most importantly, when we received this award, it talked about the quality, integrity and journalistic reporting that goes on by this staff. When you have a very small staff recognized this way compared to larger staffs in dallas, houston and san antonio, it says that this group of folks is very well connected with the community and the work they do is somethin proud of. We thank you all very much , muchas gracias. [ Applause ] [00:22:40] park,

Mayor Leffingwell: We'll resume with item number 79 with a staff presentation.

This is a change in use on parkland, which is a chapter 26 public hearing. This is an upgrade to construct and repair a storm drain in town lake, holly shores parkland. The mitigation on this piece is about \$12,672. And the legal fact finding is that there is no other feasible and prudent alternative to the taking of the dedicated parkland, which includes all planning to minimize harm to the park.

Mayor Leffingwell: Thank you. Any questions of staff? If not, we have one speaker, andrew tidrick. Is andrew in the chamber? Apparently he's not in the chamber. So we have no more speakers. So council, I'll entertain a motion on item number 79. Councilmember cole moves to approve item 79, seconded by councilmember spelman. Discussion? All in favor say aye? Opposed say no. It passes on a vote of five to zero with the mayor pro tem and councilmember morrison off the dais. Thank you.

Mayor Leffingwell: We'll go to item number 80. Is there a staff introduction on item 80?

Good evening, mayor and council. Betsy spencer, director of neighborhood housing and community development. The public hearing tonight is about the fiscal year 2011-2012 federal funds that are administered through our departments. This is a requirement of the department of housing and urban development for the entitlement funds to include community development block grants, home investment partnership, emergency solutions grant and housing opportunities for persons with aids or hopla funds. The purpose tonight is to hear public comment and testimony about the needs of the general public. I'll be available for questions.

Mayor Leffingwell: Thank you. Questions of staff? And council, this is a public hearing only. The first speaker is stewart hersh. Welcome, stewart. You have three minutes. And stewart is signed up for the item.

Mayor, members of the council, my name is stewart hersh, and like most in austin I rent. The level of federal housing investment is decreasing. This is also been the case for our local housing investments such as the housing trust fund, the general fund and the shrinking pool of general obligation funds in housing in recent years. I am asking you to reverse the local trend in order to address the pressing housing needs across the adopted housing continuum that you have adopted. Please consider the number 1, restore the housing trust fund to \$1 million as you did beginning in 2000 for most years in the past decade. In order to accomplish this, make sure that all public lands that were not on the tax rolls

that are now generating city property tax revenue have 40% of this revenue going to the housing trust fund as required by the september 7th, 2000 council resolution governing that fund. Number 2, consider adopting the choate tow round table report as a mechanism for establishing reasonable goals for the action plan. It's my understanding you've received a copy of that report today. We tried to deliver it.

Consider adopting the coalition repair report as a mechanism for establishing reasonable home repair goals for the action plan. Number 4, provide sufficient resources for rental investment so that two rental applicants who have met plesh hold scoring, but were not fully funded last december will have the resources they need. And number 5, reallocate resources for underperforming housing programs to accomplish the housing goals. As you move towards adoption of the action plan and the drafting of the city budget, please keep these suggestions in mind. Thank you so much.

Mayor Leffingwell: Thank you, stewart. Michael willard. Michael is signed up neutral. And welcome. You have three minutes.

Thank you, mayor, thank you, council. My name is michael willard, I'm present easy president and ceo of austin habitat for humanity. In a few short weeks habitat will begin building a home for nedic navarro and I'm provided you a profile about her and her family. She's a single mom taking care of her elderly parents while raising her children in a two bedroom apartment here in town. The home is real special to her. She's moved here from cuba and has for long time looked for a stable place to live, so she's looking forward to this home sha these longed for, but more importantly for austin habitat it represents our 300th home in our community. With this milestone we estimate that there are over 1500 individuals who have lived in habitat homes here in austin. And it's important to realize that the homeowners that we're serving are low income individuals between 25 to 50% of the median family income in our community. This need for affordable home ownership is one that we are passionate about, not only providing home ownership and home repair for homeowners who cannot repair their own home. We've had a great partnership with the neighborhood housing and community development department. We want to continue to see th grow. And they've been supporting us in terms of being able to acquire properties as well as to repair homes. We do ask that and endorse the choto's round table recommendations to do the following, recognize that all housing needs for all lower income austinites and reaffirm a commitment to addressing them. Number two, to revise the annual and consolidated plan process to use current, consistent data and analyze across the housing continuum, filling in gaps. Third, set specific goals across the entire spectrum of affordable housing needs for numbers of units over one, five and 10 year periods while maintaining flexibility and a predictable process to revise priorities on an annual basis. We think that's critical to us as we work through the process to work towards. And finally we need to continue to seek new resources to be able to fund the housing in our community. And finally, we need to be able to increase the priority funding for chodo's and nonprofit organizations in order to achieve the core values of deeper affordability, longer term affordability and geographic dispersion. Thank you very much.

Mayor Leffingwell: Thank you. Catherine stark? Catherine stark has signed up neutral. Welcome. You have three minutes.

Good evening, mayor and councilmembers. My name is catherine stark. I'm the executive director of the austin tenants' council. And I wanted to take this aunt to talk about -- to take this opportunity to talk about renters in austin. Our renter population is growing in the city of austin. It's now 54%, so more people rent than own in the city of austin. And of those folks that rent, a lot of them are moderate to very low income. The housing study shows that the city did -- that one of the areas of greatest need for housing is people that make less than 30% of the median family income. And those folks are having the hardest time finding houses. As you know we've lost a lot of our affordable housing. A lot of it has disappeared during the last boom. One of the other areas that the tenants council is involved in is fair housing. April is fair housing month and wrun of the things that we're seeing in its continuing trend is that of the fair housing complaints that we receive, over 60% of those complaints are from people with disabilities. And the majority of them are very low income. So we have this population that has the

greatest need for housing and then when they can find housing they're having problems in that housing with discrimination. So we have a whole population that is really having a difficult time so we might need to consider that as we're looking at cdbg home funds and the other funding that we receive. The other thing I'd like you to keep in mind is these are the only real true dollars the city gets to do housing, to do housing for -- to get down to the 50% subsidies. So please consider that as your allocating funds, thank you.

Mayor Leffingwell: Thank you. Next speaker is garroll linder. Gary linder? Not in the chamber. Charles (indiscernible)? Donating time is elizabeth walsh is she here? I don't see elizabeth. Okay. So you will have three minutes.

I shouldn't need it. Thank you, mayor. Councilmembers, I'm charles cloutman with meals on wheels and more and I'm honored to be the chair of the austin housing repair coalition. I'm here to talk about the need for continued funding for home repair. Two years ago you be never nently came up with a plan that allowed us to go into homes and repair them. It's a very effective policy. It's -- we fixed a lot of homes last year and we're continuing this year. Neighborhood housing has done a wonderful job of tweaking the program and making it work. It's working well. We sent you a report based upon past census data that declares there's 13,000 homes that need home repair, people that are living at the poverty level. Federal funding is getting the cut, 62 percent, which is go into hud and the emergency home repair program, as well as the city's avr program. All signs are looking bad. We need help on every. The state is going to cut their housing trust fund by 50 percent. Again, we're losing funding there for state architectural barrier removal. Home repair is the fastest, most efficient, most effective method of maintaining affordable housing. It allows seniors to age in place. The people that I normally work with are seniors. Obviously from meals on wheels. It allows children to stay in their school and prevent them from having to move to saver affordable housing outside of their known location. Which obviously as you all well know that when children have to move they're more prone to become dropouts and more prone to enter the criminal justice system. It preserves neighborhood intact. It keeps people in their neighborhood. It keeps traditional families in their neighborhoods. And slows down the ill effects of gentrification. It preserves existing housing stock and the urban character that makes austin-austin. We have a very unique location here. We're not dallas, we're not houston. We have a very close urban core that is still viable and we need to keep it that way. To achieve these goals as set out in the housing report that you've received, we asked for three million dollars a year to keep this program going. It can come from the g.o. Bond part of affordable housing, part of the g.o. Bond or other sources. I like stewart's idea of fully funding the housing trust fund. Many other avenues on making this happen. And we ask for your consideration as you deliberate and as you think this through. It's a tough year, tough choices. Thank you for your time.

Mayor Leffingwell: Thank you, charles. Ardell slade signed up for. Not in the chamber. Jeffrey richard? Ardell? Excuse me, ms. slade. My apologies. mayor, if I may, slade is working with a group of our neighbors and citizens for the urban league and the emergency home repair program. We have several of them here. If you would like, we could bring them in in the order that we had thought about or you can have her speak now. It's up to you.

Mayor Leffingwell: Without objection, you can proceed in the order that you would like to.

Mayor, councilmembers, I'm here to ask you all to please, please keep the [ inaudible ] you don't hear me?

Mayor Leffingwell: We can hear you good now. Just talk into that microphone.

I'm sorry. mayor, I am here to ask you all to consider keeping the urban repair program going for seniors and low income families. We need that service and we need your consideration to keep it going. Thank you.

Mayor Leffingwell: Thank you, ma'am. Jeffrey richard?

Thank you, mayor and members of the city council. I'm jeffrey richard, president and ceo of the austin urban league. It's good to see you again this evening. There's several of us, several of our neighbors and colleagues to speak about item number 80 for the u.s. Department of hud and the funding for housing programs. If I may, at your desk should be an electronic copy of this information. I assume they have it at their monitors. And so the persons who will speak would be myself and then bryan sykes, who is a quality control inspector for the urban league. Our neighboring client, miss clara touche, miss nellie tias, a neighbor and client. Miss nellie slade who you heard from this evening. Miss sierra finger had to leave and so we will abbreviate our presentation based upon that. So I would like to just talk a bit about what we do relative to the housing area and then I'll stop talking and let you hear from your neighbors and constituents. And then if you're interested and if we have time, I've just returned last week and have an update on what's happening with community development funding if you're interested for ny '12. So the vision of the urban league is a community where all individuals and families are he empowered to succeed economically and contribute to their community's success. The mission is to assist african-americans and all other underserved austin area residents in the achievement of social and economic equality. And we do this in four ways by focusing on educational improvement, employment readiness, health and wellness and preservation of that's where we'll focus this evening. The urban league is about 101 years old in the united states. It celebrated its centennial last career and it's 35 years old in austin. Since 1977 we have had a partnership using community development block grant fund that you will be talking about this evening. More than \$14 million and more than 10,000 homes repaired neertly four decades of service. I'll end by saying we have always exceeded our target, and I'll end with words from the last audit that we received from the city of austin from one elizabeth spencer who was then acting director. The note said that we are operating within our budget. We report our results accurately and in a timely manner. We used licensed and insured contractors. Have impeccable client files and we are operated by experienced and capable staff. And I think that says a lot. I would say that we have enjoy add wonderful relationship with the neighborhood housing and community development department, the current excellent staff, as we have with staff over the past 40 years. With that I'll turn it over bryan sykes, our quality control inspector and he will go.

We do so much work for our clients with the electrical plumbing, roofing. You know, it's just -- it's so hard. I mean, what we do is not so much just the home repair. We give our clients the piece of mind where they can sleep at night without having to worry about where the jobs are or how they will get fixed, paid for. It's just hard for them. Without us -- these other programs I don't see how they can make it in the city. We serve roughly 500 clients a year. And I just can't see how we can just throw that away. But I'd like to --

Mayor Leffingwell: So reset the clock. The next speaker is clara touche. And you have three minutes.

I want to thank bryan sykes and our organization for everything they've done for me. I appreciate it. Thank you.

Mayor Leffingwell: Thank you. And next is ellie telles. My apologies.

Good evening mayor, good evening, councilmembers. My name is nellie telles. I'm a senior, I'm a widow. And I have come here to support -- in support of the urban league's home repair program. My husband died about 14 years ago and I've lived in that house that we bought when we got married 58 years. But when my husband was alive he was a good repairman, so he did a lot to the house. But after he passed away and my children grew up and left the house, my three sons, that left me alone. But anyway, first I'd like to say that there are many se citizens like myself by having to make ends meet each month on a fixed income. Many of us has been living in our homes for a long time. Like me, 58 years. With time many of our homes become in need of repairs. Living on a fixed income makes it hard for us to repair needed -- to do the repairs needed to make sure that we're living -- living in safe homes. I hear many of my elderly neighbors and friends talk about how they have decide -- they have to decide



each month on which bills to pay because there is not enough money to pay them all. Many years I was active in the community and issues in my neighborhood. I have volunteered for parks and recreation for 20 years at parque zaragoza and i worked for 13 years to have the parque zaragoza built. And I'm very glad for that. And right now I have -- I'm at the connally hair row advisory board another 20 years, so that makes me a volunteer for 40 years for the city. And I love it because I love to work with people. But now my health, it has slowed me down to where i can't be as active as i would like to be, but I am lucky because if I ever need help with home repairs in my home, I can count on the urban league to help me. And I love that. The home repair program -- excuse me. The home repair program of the urban league has many -- has been around for many years and has helped many seniors that are homeowners in our community, like me. You know, we don't want to leave our homes as long as we're able to do our own little things and all that. We want to live in our homes. [ Buzzer sounds ] this program -- this program has a history of helping people in our community and deserves your support with funding for the good of this community. May the lord guide you. Amen.

Mayor Leffingwell: Thank you. Your time has expired. So you've already spoken, jeffrey, but I believe that carol only used one of her three minutes. If there's no objection from council, I would allow her to retroactively donate two minutes to you, jeffrey. Yes? Okay? Is there any objection to council on that? Okay.

Thank you, mr. mayor. So if I may, you've seen three of the persons, our dear neighbors and friends who have been assisted over the years. And I would say to you that -- how many does that make over a year's period? About 500. As I said, over a 30 year period more than 10,000. And these are our neighbors. They're just around the corner, just down the street. And we're helping them with certain essentials such as plumbing, indoor plumbing, electricity, water, roofing and things of that nature. I would like to say that we're very pleased to serve in this role and we know that about a million dollars of federal money comes through and is awarded for this program. We also know that this program is one of the ones that is slated for reductions, one of the estimates with zero percent -- zero percent funding for next year. I think they're right now something at about 60 percent or so. Within about 24 hours or so, the federal government may or may not shut down, and it may be delayed for another week or it may be delayed for another three weeks. This is not a way to run a business, not a way to run a government, and here we are. And so if that is the only source of funding, then we would be in dire straits, but we're not because this city has wisely chosen to make housing such an important value that you've used your own money. We call it general obligation funds to do that and have you supplemented that and I associate myself with the remarks of hersh willard as well because of the three million dollars that is not part of this conversation, per se, but part of the whole panoply of housing issues. I would say to you that I've arned from my trip in washington that the hud funding is indeed at risk, but because of the way the funding works with stint, we are currently using a different set of pool of funds rather than the current fy '11 dollars, and that is why we might not be so harmfully affected if the government does shut down with this particular program sooner. [ Buzzer sounds ] it may happen later, but not sooner.

Mayor Leffingwell: Thank you, mr. richard. And I believe vera fingers was not in the chamber.

Had to leave.

Rose coleman? Welcome. You have three minutes.

Hello. My name is rose coleman. I'm a child care director and social worker for travis high school teen parent program. I'm speaking today concerning the need for continued funding for programs for pregnant parenting students and austin independent school district. The city of austin provides community development block grants at four aisd high schools, east side memorial, crockett, reagan and travis for child care. In addition to campus-based child care, our programs provide parent education classes, social services, assistance with transportation and individual and group counseling. The combination of support services in collaborations with agencies in the community helps parenting students to finish high school and build the necessary skills to become good parents and productive

citizens. The children attending the child care centers have the benefit of high quality early childhood education as our centers are nationally accredited. These children enter aid elementary schools more prepared to be successful in pre-k and kindergarten dallas. With the recent reduction in funding we have experienced, the financial assistance we receive from the city of austin is more important than ever. Adolescents and their children are the neediest in austin, so please take them into consideration when you make the upcoming budget decisions. Thank you.

Mayor Leffingwell: Thank you. That's my old high school, by the way, travis.

Once a rebel, always a rebel.

Mayor Leffingwell: That's what they say. [ Laughter ] mike abort? First I'd like to thank you for your personal and the city's ongoing support of the arch and the other programs and services related to the homeless population. As you know, arch operations are funded primarily by the city of austin using general esd dollars. While the arch was constructed to sleep 100 men on bungs, we're currently sleeping 215 men in a combination of bunks and mats almost every single night, 365 days a year. We regularly turn away 25 to 50 men after a nightly bed lottery is conducted. On cold weather nights we referred up to 160 men to churches and/or city recreation centers. The need for arch services continues and we respectfully request that esd funding be continued for the 2011-2012 fiscal year. In addition, we respectfully request that hud funds are earmarked for additional permanent supportive housing units, especially for the chronically homeless and most vulnerable members of our community. As I indicated earlier our demand for sleeping space for men always exceeds our capacity and we are unable to provide adequate services to women at night. We sleep approximately 30 people each day who are unable to be served at night. While the arc was intended to provide short-term shelter services, because of the lack of long-term housing options for many of our clients has become home for many people. The solution of this predicament is not a larger shelter and more beds, but the development of permanent supportive housing for the chronically homeless and vulnerable individuals and families in our community. Front steps is currently in the process of placing 26 highly vulnerable clients in housing. This will allow us to free up some beds, but still will not solve the problem. We need more units of permanent supportive housing with case management and support services. Council is committed to developing 350 units of ps 8 over the next four years. We respectfully request that you dedicate a portion of the 2011-2012 hud funds for this goal. Thank you very much for your consideration.

Thank you, mike. Jennifer mcphail. I don't see jennifer in the chamber. Mr. duran. Welcome, you have three minute.

My name is spencer duran and I'm with accessible housing austin. And the austin chodo round table. It's a community housing development corporation and we focus on serving people at around 15 percent of the median family income. That's between eight and \$10,000 per year. We are also trying to expand and create more mixed income housing so we can serve all kinds of people in all parts of town. I would like to convey a community need to inform the action plan by kind of reiterating a few points that have been previously made, including urging council to adopt the recommendations from the chod dough round table and the repair coalition. And also for all low income austinites. During this time we can reevaluate what's important to us as a city and we can recommit ourselves and our resources to making sure all people in need have access to adequate housing. We would also like to see the annual consolidated plan process basically be data driven and analyze gaps across the continuum so we as housing developers are able to clearly see where the need is and what we need to do to work with the city to fix it. And also as stewart said earlier, restoring the housing trust fund to the full \$1 million that has been kind of tradition before what happened recently would also give us a lot more tools to put people in housing. I think there's a need for truly affordable housing and has been articulated very clearly in many reports every year, year after year. 39,000 New units are needed for people at or below 30% of the median family income. There's just a huge pressing need and we need to recommit ourselves to deeper affordability, geographic dispersion and making sure that people all across the housing spectrum, whether it's extremely low income people with stabilities that we serve all the way up

to down payment assistance programs and home repair programs for first time home buyers and long-term homeowners. Thank you so much for your time and consideration.

Mayor Leffingwell: Next speaker is tom spencer. Welcome. You have three minutes.

Mayor and councilmembers, thank you very much. I'm here to support the awning repair coalition and my friend charles to echo his remarks and to support what the work that's being done in the community. I think austin should be very proud of the fact that it has taken a leadership role in investing in affordable housing. We all know it's a dire need in our community. One of the most pressing needs for working families and for the senior citizens who we so clearly heard just a few moments ago, the clients of the urban league. Our program, hands on housing, is a part of my agency's work. I'm with interfaith action of central texas. And hands on housing, our housing repair program, this weekend will be celebrating its 1307 house. These -- our clients are all like the lady that we saw earlier, typically people living at 30% of median family income or below. What we have seen in the past year with the city investment and housing repair and our great partnership with the neighborhood housing department has been a buildup of our capacity to meet this need that is truly extraordinary. No other city in the nation, and we've done the background research on this, has an organization like the austin housing repair coalition. The service groups here, the nonprofits are all working together hand in glove to meet this need. We've built our capacity. We're ready to go. There are funds aside from bonds that could be made available to this and we urge that you consider these in the coming years when we're trying to meet these needs and to do it in an efficient and in an affordable manner and to get people safe and comfortable, you have partners that are ready, that have proven themselves. We won the community action network's collaboration award this year for our work. We stand ready to be with you and also wanted to say we stand ready to be with you in support of further g.o. bond proposal in 2012. If you go to the public with housing, affordable housing as a priority, I can pledge my organization will stand with you and support you each step of the way. In the meantime please keep affordable housing repair as a central peaceful affordable housing equation in austin. Thank you.

Mayor Leffingwell: Thank you. David clows. David clause -- is park smith in the chamber? So david, you have three minutes.

Mayor, councilmembers, thank you for hearing us. My name is david clause and I am the youth build program directors with american youth works. And I'm here to urge you to bond funding for home repair as well as affordable housing in general. Our agency has worked with both the housing repair coalition and with the smart housing program in partnership with neighborhood housing, and i just wan to remind you all what a unique opportunity this partnership creates for having affordable housing dollars do double time work in youth development as well. As you may know, our youth build program works to engage young people 17 to 24 years old who have dropped out of high school, and are currently unemployed, reengage them in education and job training through a unique program that involves them in real world projects, hands on training that meets real community needs. And this partnership provides these real world projects that helps these at risk youth to reengage in the community, reengage in their education and reengage in the job market. So I encourage you to keep robust funding for these programs so they can continue to be effective. I think I should also point out that these projects also leverage -- assuming the federal government doesn't shut down next week, it does leverage each of these dollars brings in about seven federal dollars from the department of labor and from the corporation for national and community service for each dollar that you invest in these projects. So keep it coming. It's doing great work. Thank you.

Mayor Leffingwell: Thank you. Those are all the speakers that I have signed up. Anyone else in the chambers who would like to speak on this item? You are gary linder? Gary linder? Okay. You have three minutes.

Good evening, mayor and councilmembers. My name is gary linder. I'm the president and ceo of people fund and I'm here to thank you for the support that we've received over the years, and the community

development block grants so we can operate our revolving loan fund. We provide loans to businesses that don't have access to capital from traditional sources and have done that since 1994. We perceive that the funding you've received has helped us in the sense that we can lower the interest rates to our clients in the area. It has also -- as the gentleman before mentioned, it helps us leverage our funds. For example, we just received the 500,000-dollar amount from the small business administration. And a large part of that is the evaluation is how many municipalities and other entities financed. So the leverage is significant with the treasury department small business administration and hud. I want to thank you for the support you've received and I just ask for the continued support as we move forward. Thank you very much.

Mayor Leffingwell: Thank you. Anyone else wishing to speak? Those are all the speakers that we have signed up, council. I'll entertain a motion to close the public hearing. Councilmember shade moves to close the public hearing. Seconded by councilmember cole. All in favor say aye? Opposed say no it passes on a vote of six to zero with the mayor pro tem off indict as. -- Off the dais. Those are all the items that we have on our agenda. Without objection, we are adjourned at 7:41 p.m.