

City Council Meeting Transcript - 12/6/2012

>> Mayor Leffingwell: Good morning. I'm austin mayor lee leffingwell. We'll begin today with the invocation from pastor tim pinson senior of the mission possible church in austin. Please rise.

>> Thank you, mayor, council and guests. Let us pray. Father in heaven, god of peace, I thank you for this day, the day that you have made. Thank you for austin, the city that we call home. We read in the scriptures that in jesus you love and even wept for the city. You cared for its people and although it was a place of great need it was also a place of community and hope. You ask us too to seek the welfare of the city and pray for those in authority. For you said that when it is well with it, then it would be well with us. So lord, I pray for our government both nationally and locally and I pray for this council and the decisions that are made in this place. For our police and firemen and women, I pray that you would bless their work. I ask on behalf of our school system and pray for its health that our children be -- continue to be inspired, taught and raised in whole some character. I ask a special blessing for those who teach and instruct these little ones. Lord, thank you for our troops. I ask that you would hold them in your loving arms. Protect those who fight for peace. Plus, bless them and their families for the selfless acts they perform in times of need. Lord, may all who serve in public interest know that they are making a difference in spite of the sacrifices they make on a daily basis. God, I pray for this wonderful and weird city. Thank you for its people. I ask for functional unity, that our daily provisions be met and realized by all that you are the giver of all good things. And for those in true need, I ask that you would give food and shelter for those without, work for the unemployed. I pray for justice and equality, that that would be available for all. Father, I ask that you bless those who serve in need as they feed the hungry, heal the sick and comfort the sorrowing. I ask for wellness and wholeness for our city, that your hands spread throughout the city streets and wipes away the stench of violence and fear. I pray that our differences be put aside and that we would join our effort and seek the good of all who live in this place. I pray not only this for our city, for our country, but for our global community. Lord, I ask for peace in the conflicted areas of this earth. I pray that you shower your shalom and mercy on the people that occupy this planet. But most of all that grace, your unmerited favor, would be known by all its inhabitants. Father, you are the creator and the owner of this universe. I acknowledge that everything in it is yours and it is held together by your righteous hand. And we, we are mere pilgrims on this soil so I ask that you help us realize we must travel light and live responsibly on this time on earth. Keep us live the hope of jerusalem, the city that will find its life from your presence, where tears will be no more and violence and crime will have no place. So lord, I pray with all of my heart that your kingdom comes soon. Until then may your will be done on earth as it is in heaven. I pray these things in the name of jesus, the one who gave his life and reconciled us through his blood. Lord, you are our god, our father. You know us individually by name and you allow us to call you dad. So father, I pray in your son's name and for his sake, amen.

[10:06:23]

>> Mayor Leffingwell: Amen. Thank you, pastor. Please be seated. Before we begin today, i would like to take a couple of minutes of personal privilege to talk about tomorrow, which is DECEMBER 7th. It's the anniversary of the attack by the japanese empire on the united states at pearl harbor and other places. A lot of folks don't remember that part, but it was actually a

simultaneous attack on several united states military facilities. And my personal story is that my second cousin, my dad's first cousin, was a victim on that day. He was a bomber pilot in squadron based at clark air force base in the philippines. THAT WAS ON DECEMBER 8th. Of course, it was across the state line so december 8, but it was actually the same time. And he was killed as his squadron had been alerted and was running across the ramp to man their airplanes to try to get in the air and mount some kind of response. So he along with many other americans were killed on that same day at that same time and as a result of that congress declared war on the empire of japan. Shortly after that germany declared war on the united states and we were plunged into the most devastating war our nation has ever seen. My cousin, his name was edward gary, was a hero. He was from san marcos, texas. And after his death the air force base in san marcos at that time was named for him, edward gary air force base. He also has a street in downtown san marcos named for him, edward gary boulevard. And he also has a dormitory named for him at his alma mater at texas a&m and i think all that is very appropriate that we honor not only him but so many others of that greatest generation, those children of depression and war who basically saved democracy for the world to come. kennedy once said, a nation is known not just for the men and women it produces but also for the men and women it honors, the men and women it remembers. I want to say just one more word talking about that honor and remember part and I want to mention an organization called honor flight austin. Which my office helped establish earlier this year with the guidance of the city's veterans coordinator gunnery sergeant alan bergeron, who is a full-time city employee working on these issues. Honor flight austin is an organization established to take those members of the greatest generation, our world war ii veterans, to to see the memorial that was erected in their honor in 2004. The world war ii memorial. And I have to say I was very honored and privileged to travel in october with 50 world war ii vets from austin to washington, d.c. These flights come at no cost to these vets. It's a nonprofit organization that was established to raise money to pay for these guys. And what a great experience it was for all of us. We had 50 vets, as I said, ranging in age -- the youngest was 84. He lied about his age to get in the army during world war ii. And the oldest, very properappropriately, I think, was age 93, an army nurse based in north africa during world war ii. Her name was isabelle. She was probably the spryest of the lot. I have to say the most moving experience of my life was when we got off the airplane in washington, d.c. At reagan national airport, and there's a welcoming committee, also volunteers, that met us up there, a guardian for each vet to escort them around and see that they were able to get where they needed to go and they got there on time and all that stuff, but the reception that we got as these vets got off the airplane was very moving and it was moving for me and more moving for them. So I just wanted to say that because I do think it's important that we continue to remember that day and remember that event and remember how important it was to the history of the united states. Thank you for the indulging me on. So a quorum is present, so without objection I'll call to order this meeting of the austin city council on thursday, december 6, 2012. It is 11 minutes after 10:00. We're meeting in the council chambers, austin city hall, 301 west second street, austin, texas. We'll begin with the changes and corrections to today's agenda. First, on item number 16 will be postponed until december 13, 2012. Item 32 is postponed till december 13, 2012. Item 47 is withdrawn. Item 48 delete the words "zero waste advisory " on item 66, postponed until december 13, 2012. On item number 68, delete as co-sponsors councilmember kathy tovo and mayor lee leffingwell. On item number 71, item number 71, add as a co-sponsor councilmember bill spelman. On items number 115 through , that's the time certain for those items, there will be a request to postpone those UNTIL JANUARY 17th, 2012. On items number -- items 94 through

98, there will be a request to postpone those ITEMS UNTIL JANUARY 17th, 2013. Our time certain items for 30 we have two briefings. First a briefing from the office of sustainability and second a briefing by austin energy, an update on the electric vehicle program. At 12 noon we'll have our general citizens communication. 00 we'll take up our zoning matters. 00 we'll recess the meeting of the austin city council and call to order a meeting of the austin housing and finance corporation. we'll have our public hearings. 30 live music and proclamations. The musician for today is the world famous woode wood. The consent agenda for today is items 1 through 76. I will read later in just a minute the items that have been pulled off that consent agenda, but first item number 61 I'll read into the record. That item will remain on consent. Those are our nominees to boards and commissions and waivers. To the construction advisory committee, robert carson fiske is councilmember spelman's nominee. To the m.b.e. and w.b.e. Small enterprise program procurement advisory committee sherri marshall is mayor pro tem cole's nominee. To the zero waste advisory commission, daniel -- daniela ochoa gonzalez is councilmember martinez's nominee. Intergovernmental body, to the capital metro authority board, ann stefford. Waivers of the training deadline established by section 21-23 b of the city code for a person appointed to a city board on or after august 2, 2012, and on or before december 6, 2012, if the person completes the training required by section 2-1-23 on or before march 29, 2013. Fortunately we have that in writing for those of you who didn't quite follow that one. The following items will be pulled off the consent agenda for discussion. Item -- items 4 and 8, whichno carrierringconnect 57600 morrison and tovo requested this be set for a 6:30 time certain. Item 69 pulled by mor lee leffingwell. Item 7 to be pulled to be heard after executive session. Item number 71 is pulled off the consent agenda due to speakers. So that is our consent agenda. We do have several speakers signed up to speak on consent items beginning with councilmember morrison.

[10:17:09]

>> Morrison: I would like to pull some additional ones off consent which might be appropriate before we go to speakers on consent.

>> Mayor Leffingwell: Yes, it would be.

>> Morrison: All right.

>> Mayor Leffingwell: Now would be the time.

>> Morrison: I would like to pull item number 35. Also number 73 and 74.

>> Mayor Leffingwell: Are those related or --

>> Morrison: No.

>> Mayor Leffingwell: So add to those items pulled off the consent agenda items 35, 73 and 74, pulled by councilmember morrison.

>> Morrison: If I may when you read those corrections, when you changed the -- when you removed sponsors for item 68, just to note that the actual sponsors are councilmember riley and martinez and there may be an additional resolution coming for additional waivers.

>> Mayor Leffingwell: That is the way it stands.

>> Cole: Mayor?

>> Mayor Leffingwell: Mayor pro tem cole.

>> Cole: I would also like to pull item 10 for a potential postponement.

>> Mayor Leffingwell: Item 10 has already been pulled.

>> Cole: Okay.

>> Mayor Leffingwell: So councilmember morrison, item number 36 is related to 35 so if it's okay with you, we'll pull 35 and 36. Now we'll go to speakers who are signed up to speak on the consent agenda. First is roy whaley.

>> Howdy, y'all, my name is roy whaley, vice chair of the austin sierra club, and in regards to this issue on wtp cost overruns, I want to get this part of it out of the way right up front.

>> Spelman: Mayor?

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: whaley, if you are speaking on the consent agenda, items 4 and 8 are not on the consent agenda and you will have an opportunity to speak on items -- if you want to talk about something else, this would be a good time to do that.

>> In the immortal words of gilda radner.

>> Mayor Leffingwell: When this item is called up, you will be called on to speak. I believe item number 35 is still on the consent agenda. It's not.

[10:20:02]

>> Cole: No, it's pulled.

>> Mayor Leffingwell: Just add item number 41 is postponed until JANUARY 17th. 36 Is pulled. We have no speakers on the consent agenda. Councilmember spelman moves approval, mayor pro tem cole seconds. Any discussion in all in favor say aye. Opposed say no. Passes on a vote of 7-0. Now we'll go back to items 4 and 8 together.

>> Cole: I think 73.

>> Mayor Leffingwell: Roy whaley. Those were pulled by you, councilmember spelman. Do you want to hear from the speakers --

>> Spelman: Yes, let me hear from the speakers first.

>> Mayor Leffingwell: Okay. Roy whaley. Okay. Paul robbins.

>> Thank you for your patience. Roy whaley, austin sierra club vice chair. I want to go ahead and get this out of the way right up front. We told you so. We said there were going to be cost overruns. We said that there were going to be issues with this project that weren't be addressed. And I want to thank councilmember riley, councilmember morrison, and councilmember spelman for their steadfast opposition to this project. And for doing what should have been done, which is listen to the citizens. Because we look the a boondoggle like this, and I'm not here to say don't spend the money. This bird has flown. We have to spend this money at this point. But what an unfortunate situation to put y'all in to have to support this when you knew it was going to go wrong the whole time. And mayor pro tem cole, i think that you had an eye opener recently in the finance committee when you found out that you had thought that you had a firm price tag, like I think many people up here thought they had a firm price tag. Now, it's understandable that people thought contract manager at risk meant the contractor was at risk instead of us. Now, then, who should have known that? Who should have had that information? I would say the austin water department should have had that information. I say the city manager should have had that information. And the city manager should have stepped up and said it appears that you are working on a false idea. Let me set you down and explain this to you. Let me explain what this contract manager at risk contract really means. And I think it's possible that some of you might have reconsidered your position had you known that. Now, we're talking about \$15.5 million. But in reality we're talking about approximately \$60 million. Because they bid a contract and then started lopping stuff off. We took off a whole water main over to for rest ridge. We downsized pumps. We downsized pipes. We downsized the infrastructure from what was originally put out there. It's like saying I've ordered a brand new deluxe cadillac and I want to make sure that since I live in texas I've got air conditioning in my cadillac, and they delivered it and there's a window unit in the back. And they are saying, well, we delivered what you said. You wanted ac, you've got the window unit in the back and it's got a remote control so you don't have to reach back there.

[10:25:40]

[Buzzer sounding] and we put it on the passenger side instead of the driver's side so you can still use your manual mirror and crank-down window.

>> Mayor Leffingwell: I don't remember time has expired.

>> Thank you.

>> Mayor Leffingwell: Paul robbins.

>> I'm not sure if roy said this right, we told you so. Let us review the history of misleading premises and broken promises regarding this plant over the last three years. This plant was partially justified to the public on the need for new capacity that austin had to provide for new growth. This growth is not happening. In 2011, the hottest year in austin's recorded history, the utility peaked at 225 million gallons a day. This year it peaked at 203 million gallons a day. With water treatment plant 4, we'll have 335 million gallons per day. With conservation aggressive water programs, this peak demand would be reduced to the point where we would not need the capacity of this plant for many, many years. In 2009 the council and the public were led to believe the construction costs would be \$359 million. Now we're told it was only an estimate. Utility staff will do their best to appease and apologize, and they will apologize sincerely all the way to the bank. In a similar vein, we're told increased cost is only 15.5 million. This ignores the \$44 million in value reductions such as small water pumps and elimination of a key transmission main. But that's all in the past, isn't it? Well, maybe not. Now that guaranteed maximum price really isn't guaranteed maximum price as it was verbally guaranteed, how do we know that there aren't more semantic and financial loopholes to charges even more money? I can think of two straight off. Change orders and off-loading commissioning and completion costs into operation and maintenance budgets. Hey, I'm getting good at this, council. Maybe there's a career ahead. So this leaves you, council, withholding the utility accountable for this fiasco. Until you put your foot down and say no more is no more, this kind of thing will continue to happen. It is really that simple. Thank you.

[10:28:36]

>> Mayor Leffingwell: The next speaker is bill bunch.

>> Good morning, mayor and councilmembers, bill bunch of save our springs alliance. This is not a happy time to be saying we told you so. Nobody relishes that. But it true. That's on the financial side. On the environmental side, and whether we needed this. And even if for those of you who were convinced we needed more capacity, there were options that were literally one fifth of the cost of this project, which is a half a billion not counting interest. Now, you were told over and over in public session, in written documents, guaranteed maximum price, construction manager at risk. We heard those terms in capital letter, proper nouns, over and over. Let me ask you, was there ever a single hint in a single document that construction manager at risk didn't mean that? Or that guaranteed maximum price didn't mean that?

>> Mayor Leffingwell: Yes.

>> When was it, your honor?

>> Mayor Leffingwell: Go ahead.

>> Please point that --

>> Mayor Leffingwell: I will discuss that when you get through speaking.

>> In the audit and finance committee meeting, four of you said very clearly that your understanding was the price was the price. And we were paying the extra for the construction manager at risk so they would assume the risk. An insurance policy. You were misled, the public was misled. robbins said, if you don't hold somebody accountable, this is going to happen again and again and again. This is a council manager form of government. Seems to me the question is, ott, when did you know, what did you know and when did you know it. And if you didn't tell the truth and give the full picture to the council, you need to be held accountable. If you -- if that information was conveyed, then let's put it on the record. If it was not conveyed, then the utility has to be held accountable. And that is your job, mr. ott. To hold the proper person accountable. Or you should be held accountable by the council. That's how a council manager form of government works. This is not something to be brushed aside. Maybe you need to spend this money because the contracts say what they say and that the construction manager is not at risk and we have to shell out more money, but you have to put on stop to it right now. And you don't have to spend this money today and postpone. You can decide this later when you have the answers to the questions that have to be answered.

[10:31:57]

[Buzzer sounding] thank you.

>> Mayor Leffingwell: Thank you. First of all, I want to elaborate just a little bit on my response to mr. bunch. I certainly never thought the guaranteed maximum amount as \$359 million. The construction manager -- the guaranteed maximum price part was to be based on several different projects once the final engineering was complete. The 359 was based on a preliminary engineering estimate. If you wanted to get a guaranteed maximum price for a project for which the final engineering had not been completed, you would pay very handsomely for that. You would pay a lot of extra money to do that. It would have been foolish to do that. So once these individual parts of the project, the final engineering was done, then those parts had a guaranteed maximum price. And once that was established, it's almost done now, 96%, almost all of the parts are complete. Once the guaranteed maximum price which is based on the final engineering was established, then that is the maximum and all those parts have been under budget so far. So illustrative of that point, I personally remember -- this has been a project that's evolved over several years. I remember saying at the time that we realize a project of this scope, there could be changes as we went along. For example, the route or the jollyville transmission line might have to be changed. We didn't know until we got a lot further down the road. There was at one time a proposal to change the route to go along highway 620. That would have added a lot of costs. Most of the additional costs that have come along above and beyond that preliminary estimate were because of environmental -- addressing environmental issues for environmental enhancement and also addressing neighborhood issues. For example, the preliminary plan called for the entire -- called for the jollyville transmission line to be two-thirds underground and the final one-third to be -- or tunneled underground and the final one-third to be cut and cover. In other words, dig up the ground, bury the pipe and then fill it up. In order to make sure that there was minimum disruption to neighborhoods, the decision was made to tunnel the entire length underground. That added almost \$20 million. I'm not going to get into discussion --

[10:34:43]

>> all of that was --

>> Mayor Leffingwell: bunch, you can be quiet or you will be escorted out of the chamber. ... Before you signed the contract. Everything you just said is wrong.

[Applause]

>> Mayor Leffingwell: bunch, I'm going to ask you to leave the chamber now.

>> I'll be happy to.

>> Mayor Leffingwell: So the final one-third was added to the tunnel portion. That added cost to the project. But it was a good environmental enhancement. In addition to that, after some of the initial work was done, it was decided to bury the tunnel 50 feet deeper to make sure that there was no interference or interaction with the karst part of the geology in that particular area. These are things that were done to benefit the environment and to help reduce the effects on the neighborhoods during construction. That -- the cost, the off-set costs that were alluded to in both discussions, value engineering, that's something that would normally be done as a matter of course. As you went through the final engineering process, you would do that anyway. It's not designed specifically to address any increased costs on the other side, it would have been done anyway. I just wanted to say these things to kind of set the record straight on that. Any other comments by council? Councilmember spelman.

>> Spelman: I believe i pulled the item.

>> Mayor Leffingwell: Yes.

>> Spelman: This is going to be a fun day, I can tell. Starting off just right. I believe you, mayor, when you say that you realized that that guaranteed maximum price was 359 million was not firm, it was based on an estimate and despite the fact we were working under a see more regime it was likely to go up. I believe you.

>> Mayor Leffingwell: Good.

>> Spelman: On the other hand, I didn't believe that because my understanding of the regime was different and I think the big difference is not you wait until you get final engineering before you get a bid, it's that this particular project had so many moving parts to it and the engineering on which that estimate was based was so preliminary that the guaranteed maximum price on the whole thing all added up would have been much higher than 359. 359 Was never, so far as i know, something that was agreed to in the contract by , but rather than my saying so, we have greg mazarus. If I can ask a couple of questions.

[10:37:42]

>> Good morning, greg mazarus, austin water director.

>> Spelman: Are you going to be as happy as I am to see this done?

>> I think I'll be the happiest person in austin.

>> Spelman: I'll buy you a beer when this -- which is when clean water coming out of that plant. The critical issue for me came about two years ago in 2010. I believe it was in november 2010 when you and the city staff all asked for authorization to be able to bid this thing out all in one go and not have to come back in lots of little pieces. Do you remember that?

>> Yes.

>> Spelman: At the time, i went back and looked at the tape of that -- that hearing, and I went down one rabbit trail and councilmember riley went down a different one, councilmember morrison went down a different one, we all had concerns about the project, things we thought might go wrong. And as far as I could tell, I think councilmember riley was closest to be accurate as to the kinds of things that eventually happened were closer to what councilmember riley was concerned about. But it seemed clear to me that the three of us at least who are doing most of the -- asking most of the questions and doing most of the talking at that hearing were working under the misapprehension of that 359 was a firm number and that was what we were getting from the construction manager at risk form of contract,, that we're going to get a guaranteed maximum price of 359 for the whole thing. It's accurate, I presume, that you knew better than that. It wasn't going to be 359 firm. That was still just an engineer's estimate. You knew that, am I right?

>> That was our number, not the contractor's number. It came from our preliminary engineering process.

>> Spelman: Right. And the -- assuming an estimate for how much it might cost and there's nothing in the contract we which held them to 359 million. Is that accurate is this.

>> That's correct, that number was not guaranteed.

>> Spelman: Right. But we did get some kind of guaranteed -- guaranteed maximum price out of the construction manager at risk regime, did we not?

[10:40:07]

>> Yes. The project is -- consists of over a dozen construction packages and bid out over a multi year period, and as we bid out each package and award that work to our and their subs, that particular portion of the contract is guaranteed once it reaches that stage. We have over 95% of the project is currently under a guaranteed maximum price construction agreement. We have two smaller packages yet to bid. One in january, one later in 2013. And once those are bid, those will be guaranteed maximum price contracts and the whole project will then have an overall guaranteed maximum price. As a result we're asking for the -- the ask today, the 5 million to complete the bidding of that project. The other point we've been trying to make along the way is each guaranteed maximum price contract beside the cost of work has a small amount of allowances and contingencies and it is our expectation that based on behaviors of the project so

far that a significant portion of that will come back, probably 7 to \$10 million. And that will ultimately reduce the overall final cost of the project in addition to the overall guaranteed maximum price. Councilmember, I would add the seemar model brings many more beyond just what you bid. All the -- there's going to be one person integrating that, m.w.h. That they see that that comes together as a working whole. That would have been our risk normally. That now shifts to the contractor. There's also ways that we manage safety risk on this project, environmental risk on this project by having one integrator that we could put into the design early and help us work this through with neighborhood issues and a whole host of things, that all helped us management risk and associated costs along the way.

>> Spelman: One of the primary values of a construction manager at risk regime is the construction firm and the design firm start talking to one another very early on so that we don't have the design that can't be built or is inappropriate to build or more expensive than necessary to build handed off in its completed form to a construction firm that would prefer to have built something different because they could build something else that's better or cheaper.

>> You have a much richer partnership between a designer, the city, the constructor, much more flexibility working through unexpected conditions, and we have many and will have many more. Just to name a few we were working through complicated shaft citing issues at spicewood springs neighborhood and were able to bring the designer and constructor to the table at the same time to work that out. Traditionally you can't do that. Here just about a year ago when we were digging our shaft site at four points we had some weepage water coming into that sensitive shaft site and were quickly able to mobilize a team. You assisted in those discussions where we did enhance grouting to seal that rapidly, deployed age testing of the water and all kind of other activity and that was done in a partnership collaborative manner that you traditionally aren't able to do in a normal project delivery. So is seemar model brings a lot beyond guaranteed price structures.

[10:43:41]

>> I'm convinced seemar was the right way to go and we've gotten value out of doing it that way rather than on a hard bid basis. The biggest residual concern, I've got two. One of them is the rhetorical concern that this project would have been brought in on time and on budget if it hadn't been for those pesky environmentalists and neighborhood people. Because the whole reason this thing is over budget is because of those pesky environmentalists and neighborhood people. I'm not -- I won't ask you to comment on that, I just wanted to get that on the table. There's a whole lot of reasons why the project changed along the way from the original design to where it is right now. And I think it's a much better project on a whole bunch of different dimensions than it boys would be. Are there any changes that you can think of -- I'll venture forth because it's early in the day, I figure maybe I can get away with this. Are there any other changes instituted between the time of the preliminary engineering estimate and now which were not instituted by pesky environmentalists and neighborhood people?

>> Well, sure. I would comment first --

>> Spelman: Thank you for saying sure, greg. I appreciate that.

>> It's not our intention along the way. We're not blaming environmental issues or neighborhood issues. That's a natural part of every project you are working through those kind of issues. I think our message what we're trying to communicate, it is impossible to anticipate all of those at the upfront side of the project. As a matter of fact, if you tried to freeze that at the upfront portion, you wouldn't have any flexibility whatsoever. All we're trying to common indicate is that we put together a team that was very responsive to those kind of concerns. As I think the mayor and council would want us to be. And as we responded to those, that changed scope and cost and ultimately led to where we are today. So I don't want to in any way convene that our project team is trying to blame environmentalists or neighborhood folks, that that is not at all what our intention was. And many design things changed along the way. One of the more -- probably the most technically demanding almost of the project is the marine work and that was difficult to estimate. There's a limited number of contractors in the nation that do that work. And as a result that was an area that we underestimated originally at preliminary and ended up bidding higher than we thought. Blame pesky project engineers for that.

[10:46:18]

>> Spelman: Lousy water.

>> So it's a whole host of these issues. And we're delivering a high quality product and a project that improved in scope in many ways. Our decision to change our approach on jollyville, you get a much better pipeline system with that project. So we're not arguing that that was a bad decision or inappropriate decision.

>> Spelman: At least by some lights it a more reliable shaft on the glenn rose than it would have been on the cut and cover on the karst.

>> Absolutely.

>> Spelman: You've never blamed anybody for any of this stuff. You've been real good about responding to the needs of the situation and keeping everybody together and all of us have been acting like cats and you've done a good job of herding us and the contractors to get this close to conclusion as we are now. I have one other concern and this is one of the those monday morning quarterback kinds of things, but this is something which I think is is a heart of our current problem. I believe that at least four of us and maybe six of us who are on the dais two years ago believe that that \$359 million construction estimate was a firm figure and that the construction manager at risk guaranteed maximum price regime was why we could count on that 359 being accurate. Now that I know what we were and weren't getting at a construction manager at risk and what that guaranteed maximum price actually apride to a bunch of different bid packages once we got beyond the preliminary engineering phase, now that I understand better how it works, it's clear I should not have expected that 359 to have been accurate to be a final figure. I didn't know that two years ago, most of us didn't, it seems to me you knew it and the city manager rudy garza and the city manager knew it and I suspect some other people working for you guys also knew it. It seems to me it was the responsibility of somebody on city staff to have made sure we all knew that so that we knew what we were voting for or against. And again, I don't want to put you in a difficult position, but can you remember what you were thinking? Did

it occur to you we thought 359 was a different number than you thought it was at the time or can you not remember that?

>> I don't remember all the specifics of that dialogue at the dais. It certainly wasn't our intention to try to communicate that under no circumstance could 359 ever change. I guess it's is risk of assumptions. Even all along the way the mere mention at one time we were talking about a reroute of jollyville and I know specifically I talked to councilmembers that could add \$50 million. That was after we signed the seamar agreement. I just assumed there was a sense that it was clear that that was not an absolute guarantee by our contractor at that time. Certainly we were very committed to doing all that we possibly could to deliver a project that met all the design goals and still stayed at 359. I guess I would say on behalf of the project team that we conveyed that that was guaranteed, that was certainly not an intention and that wasn't what was in my mind as the time we took that to the council.

[10:50:05]

>> Spelman: Had -- had we done one big package instead of breaking it up in little pieces and trying to bid it based on that preliminary engineering at that early date two years ago, I'm convinced the only responsible bid would have been in excess of 359. By breaking it into pieces and getting guaranteed maximum price on each bid package we ended with a lower total cost. So I think we probably played it just exactly the way we should have except the council needed to know what the game was and we do not know -- I did not know what the game was. I know at least a couple of us didn't and I suspect most of us didn't. And I -- it's hard to identify a situation in advance where people are speaking a different language and some people are believing one thing and somebody else is believing something different and they don't even realize they are talking past each other. Had any of us known enough to ask what I thought was a foolish question, does 359 really mean 359, I didn't think to ask that, neither did councilmember morrison or councilmember riley, because we assumed it was a done deal and we didn't need to ask that question. I remember in fact some relief on the part of one of your colleagues who no longer works for city government when it became clear I was not gooding to ask a question he didn't want to answer and now i know that was the question he didn't want to answer. I thought at the time i really missed something, i wonder what the question was, now I know what the question I should have asked. If somebody is expressing relief that the council is not asking a question, it seems to me the right answer is to up front volunteer that answer and say you need to know, council, this 359 is not a firm number. I think I just needed to berate you a little bit greg. I think you've done as well as you can. Certainly in the last couple of years you've done a tremendous amount of work to get as much value out of that property and hold as close to that 359 number as well as you could and you've done a wonderful job working with us pesky folks who want changes in the project to make it environmentally kosher and neighborhood friendly and I think this is a much bigger project that you and your staff have done to do that. I wish I had known what we were getting ourselves into a couple years and and i won't speak for the rest of council but I bet they would say the same thing. Thanks.

>> Mayor Leffingwell: Thanks for those comments, councilmember spelman. And I want to add two things. First of all, I never blamed anything on any pesky people. I said there were environmental enhancements that were made and there were changes that were made to address

impacts to the neighborhood. And I have to point out that even if there were a firm price of \$359 million, if we had wanted to make those changes, we would have had to renegotiate that firm price to incorporate changes that were not in the original plan. So I just wanted to make those two things clear. And, you know, I guess i would have to say i understand the confusion that's involved here. This is a complex project, it's a large project, and i will probably somewhere along the line somebody should have said -- I mean i knew it as I said because we talked about how changes might change the price, but 359 is the preliminary price and that will be determined as we go down the road. City manager wants to say a word. By the way, we have one more late speaker that signed up.

[10:53:56]

>> Appreciate your comments as well as those of councilmember spelman. And it is not my nature since I am city manager to have one of my department heads stand there and take responsibility for this. Obviously the buck stops at my desk and so I want to take responsibility for this set of circumstances. Staff has worked long and hard on this and, of course, this project pre-dates me and pre-dates greg and a number of other people that have been working very hard now for the past several years to, you know, to bring this project to a successful completion, and at the end of the day I think it is going to be successful and i think it is absolutely necessary in terms of a long-term viability of this city, of our community and our ability to provide adequate and high quality -- quality water. It's complicated and so as we all know with respect to complicated issues, complicated projects, sometimes, you know, things get miscommunicated or they don't get understood. It was not that the staff's intent nor mine to mislead the council or the community in any way whatsoever. I think that -- believe that staff felt that they had explained the characteristics of this project, particularly with respect to what we're talking about here, the construction manager at risk. Could we have done a better job, the obvious answer to that is yes, we could have and we simply didn't obviously by members, spelman and perhaps others who are indicating that they didn't understand what we were placing before them a couple years ago. So we do apologize for that and as your city manager i take responsibility for it. The buck stops at my desk.

>> Cole: Mayor?

>> Mayor Leffingwell: We have one more speaker. Do you want to hear the speaker or speak now?

[10:56:05]

[Indiscernible] haynes.

>> Good morning, mayor and council. Clotille davis haynes. I am the minority business, women business coordinator for this project and I wanted to come and share what I consider to be some extremely encouraging news about m.b.e. Participation on this project. To date more than \$51 million of contracts have been awarded to city of austin minority and women owned firms. Actually there have been 19 packages for this -- excuse me, 18 bid packages goals have been assigned. Some of the packages were special active packages that had zero goals. In 18 of those

19 cases, all, all categories of mwbe participation goals were met or exceeded which is extraordinary. And in some cases those goals were either doubled or tripled, again, extraordinary. I want to give you a example. For instance, for the pre-construction phase and general conditions phase, the -- while the -- excuse phase 9%, actual participation in the contract award to date is 18.6%. That's more than three times the goal. That's outstanding on a project of this size. More women owned businesses, 95% and the contract awards have been almost 9%, two and a half times the goal. For a project this size, again, I want you to understand that -- that that is an exception achievement in my opinion. And then just to further share and I will be done, to give you some other flavor of the individual categories, to daylight to date more than 5 million awards to african-americans. 5 Million of awards to hispanics. And almost \$5 million of awards to native american, asian firms, and finally for women owned firms, \$13 million. I thought it would be important for you to hear that message as well. There were those in the minority women business community at the time that felt if this project does go forward, it must be inclusive, it must provide opportunities for local certified minority and women owned firms and it has done that. Thank you.

[10:59:01]

>> Mayor Leffingwell: Thank you. Councilmember morrison.

>> Morrison: Thank you, mayor, and I appreciate that information. That's very important information. I want to go back to the comments of councilmember spelman focusing on the cmr that we didn't have in front of us on the table for whatever reason because we didn't ask the right questions, about the cmr not being a firm fixed price contract. I think there's actually another key piece of information that we did not have at the time that's really intertwined with that and that is that -- and this is a little into the weeds but it's critical and that as we discussed at the finance committee, it was paid on preliminary design and there was good reason and rationale for bringing the cmr contractor on board at the early stage, but the fact of the matter is that estimates at preliminary design, as we heard from mazarus, are anywhere considered in a standard manner anywhere from over by 50% to under by 30%. And we had a contingency in there that was not 30%. So one of the ways that we could have mitigated this situation had we known that, that we were going to be considering going into the cmr contract at such an early stage was to say, well, fine, but the risk is great that we will have actually a higher overage and we would have had a bigger contingency we could have considered adding a bigger contingency. Now, knowing what the standard range is at preliminary design, that's something probably not going to be common knowledge for some councilmembers, certainly not for me. So really it brings to mind another question that we didn't know to ask, and if we had asked it, we might have ended up in a different situation. So it comes down to us not having asked the right question, needing to have staff know when we really have essential elements of information that are key to the decision that we're making to make sure that those are on the table. And city manager, i appreciate your comments because I know there's been a lot of conversation about who did what when and all of that, but I appreciate you stepping up and saying that the buck stops there because I know staff is working and everybody has different roles and responsibilities. So in terms of what we have in front of us here, here's my question. What are the questions that we're not asking now?

[Applause]

>> greg mazarus, austin water again. Do you want me to respond to the questions you're not asking now?

>> Are there questions that we haven't asked that we really should ask to fully understand the situation now?

>> Well, I just will respond in a general way. One, I would go back -- this was our first use of -- certainly a utility, of construction manager at risk and particularly in a multi-packaged setting. I think part of the communication issue goes to this being a new delivery model that in terms of communication. So I think it will get better in the future in terms of how to communicate cmr and the various assumptions that go into that. Councilmember, if you are saying with regards to this construction contract process, what are you asking that you are not asking now, what I want to be clear is I cannot nor can anyone guarantee that this project is not going to have another issue along the way. Everything we know today we don't believe we're going to go over, our behavior has been very well, but there are what they would call force majeure issues and act of god and tomorrow we could drill into a large underground water system. We don't have any indication of that but I'm not here guaranteeing that there's nothing that could possibly go wrong on this project from here on. I just want to be absolutely clear on that. I'm clear that everything we know we believe we have more than adequate fund to go complete the construction of this project, but I don't want to be facetious, I'm not god and I want to be clear about that, I cannot guarantee those kind of force majeure things to you.

>> Morrison: I appreciate that and I guess if you think about the -- what was originally 508 million now going up to -- presumably up to 520 something million, the 359 for the cmr is going up 13, I guess it is, with this -- would go up 13 with this. We are getting very close to -- well, let me back up. Will that be a guaranteed maximum price at that point from this cmr contractor, excluding any acts of god and things like that and increase in scope?

>> Yes, we have two packages left to bid. One will bid in january for finish water pumping -- excuse me, back wash pumping, and one will bid in the spring for final site finishes. When all of the project will be bid and all the various packages will add up to one overall guaranteed maximum price.

>> Morrison: There is still some openness on those two. We don't have a guaranteed maximum price on that yet.

>> That's correct. They still have to bid. They are 100% designed. They are not paid on preliminary that you mentioned before. I think they are very accurate estimates of those and we're not expecting those to bid with wide ranges of estimates. And that what you have before you today from everything I'm very confident that those will bid within that window and we'll have a rolled up guaranteed maximum price.

>> Morrison: Thank you for that. I think there's one other element of this and that is that part of this whole situation relies on the scrubbing, the value engineering, the descoping and all that's been done to sort of pull it back to a smaller project where you thought was feasible. I guess that's another place where we -- where I as a councilmember certainly don't have detailed

knowledge about have we done all -- to be able to analyze have we done all the scrubbing, all the value engineering we possibly can so we know that's all we can save in that regard. Can you comment on that at all?

>> Yes. Our value engineering and scope management was very, very rigorous. It involved not only austin water staff, public works staff, the seamar, the original engineer but we brought outside firms in with objective perspectives to perform that work. With the council's urging we had an advisor along the way, cdm has been advising so we put together a world class team to look at all those stones to turn over in terms of reducing cost and managing scope. So I'm very confidence that we turned over every one of those stones. We'll still continue to actively manage the project. I think where we're likely to see what I would call additional cost savings would be in keeping our allowances and contingencies to the absolute minimum. Right now we have roughly 5 million of allowances and contingencies on those gmp packages and it is our goal to bring the project in and return a good forks back to the city and so that will be an area we'll continue with a lot of time and effort to manage.

>> Morrison: Okay, so in summary just in terms of putting my own thoughts together, what I hear you say is that you have a very high level of confidence that this is enough money for the cmr contract. But you have scrubbed and saved as much as you possibly can and still deliver a product that produces what's needed and that perhaps some of this money will come back and not be spent because it's being pushed -- it's being put aside for contingencies that might not be needed.

>> That's correct.

>> Morrison: Great. I hope to not see you again in this situation.

>> Me too.

[Laughter]

>> Mayor Leffingwell: Based on the preliminary engineering versus the final engineering and our current estimates with 96% of those contracts set at a guaranteed maximum price, the price -- the price of the project now exceeds the preliminary by somewhere between .8 and 3.3%. I think that's a very -- we're talking about cost overruns. That to me is a remarkable number for a project this big, half a billion dollars, and covering this many years so I want to congratulate you and all the folks involved for doing that.

>> Cole: Mayor?

>> Mayor Leffingwell: Mayor pro tem cole cole i also want to congratulate the city america and mazarus for all your work. I know it's been difficult because we've had questions and for you stepping up and taking responsibility for what we did not know and did not ask, but I think we all have to take responsibility for the question we did not ask. I was in the category of the misunderstanding about the guaranteed maximum price and it serving as an insurance policy. But I want to take another tack because we received a memo and there was some thought at some

point about sell property to deal with cost overruns. Can I get any -- overruns. I believe it was actually the old site of water treatment plant 4. Can you comment on that?

>> Yes. We -- when we moved our original water treatment plant site was known as the bull creek site back in, before my time, but back in early '07, there was a process initiated to change sites. And we ended up on the current site called the bullock hollows site. In addition when we changed sites and purchased the bullock hollow site because we didn't know if that site was going to be fully suitable until we performed design work, we also purchased a backup site located in the 620 anderson mill area. Now that plant 4 is clearly going to be completed at the bull creek -- excuse me, the bullock hollows site, that other site is excess property from the utility and we are in the preliminary process and plan on following all the council's advice protocols on selling property of divesting us of that property. And so our expectation is the year would go on and depending next year how long it takes to work through that we would sell that secondary site that we purchased and defuse the costs associate with that.

>> Cole: We've had discussions at council about the sale of property and needing to think about our procedures with that and today we're dealing with a situation where we have an overrun and we're having to consider approving that, but I also want to add that the flip side also applies is that we don't want to under sell property because of this process either and its value. So when you think about informing council about that, I know there are some rules that already exist about what we make public information and I want to make clear we're not asking you to do that and maximize the price.

>> We want to make sure we get the right price or we won't sell it and will work through all the protocols how to sell that and communicate back.

>> Cole: Okay, so we know that you already established from some other councilmembers questions that you are not anticipating any more cost overruns but you can't influence acts of god and what happens. So even if something did happen, we do have that property as potential backup to cover those costs.

>> That's correct. And I would add other assumptions along with the way were more favorable. Our bond interest rates that we're use to go finance this project are lower than we anticipated when we set our original goals. There's other parts of the project that are working favorably for the cost of the project over the long run as opposed to negatively. There's other things that we haven't communicated that have been positive for the project too.

>> Cole: We talked about this extensively in audit and finance, so I just also want to touch on the concept of shared contingencies. Not only was there confusion, I believe especially on my part about the guaranteed maximum price and what could happen, there was also concern or confusion about how a shared contingency worked. So can you briefly explain that?

>> Yes. As I mentioned in the -- earlier that each construction package has a certain amount of contingencies, roughly about 2% to deal with -- with the things that contingencies are used for on these kind of construction projects. Those contingencies can't be used by the contractor unless

the city approves it. Once the construction package is complete, any remaining contingencies are returned back to the city. And so that -- that's -- that's how that is managed.

>> Cole: So there's really no place -- what I'm wanting to try to figure out is how we don't get here again. And I don't know if you have any immediate way to think about that. I'm going to ask you to think about that further even after we leave here, but what is the general range for a contract like this. I think councilmember morrison mentioned some but I didn't quite get them as far as they can be over and under.

>> It depends on what level the project you are on. In early stages of project formation, planning, the estimates can -- can be very high or very low, the range. As you go into more definition, preliminary engineering tightens up a little bit more. Typically 30% higher, 15% lower. As you go into the design, it tightens up more. A fully designed project before you bid it would have very tight estimate ranges. And as councilmember morrison indicated, when we started this project with the seamar, the \$359 million number came from preliminary engineering which means it would have had a little wider potential cost range than had you been, say, fully in design.

[One moment, please, for change in captioners]

>> I don't want to interrupt her, but you've been saying good things about the project and I just had the good fortune of coming up to the dais. There are hundreds of people out there everyday making this thing happen that are working tirelessly. And to their credit it really goes to them and not me. I just come to the dais.

>> Cole: I move approval.

>> Mayor Leffingwell: Mayor pro tem moves approval.

>> Cole: Of item four and eight.

>> Mayor Leffingwell: Of items four and eight. And I will second. Further discussion?
Councilmember tovo.

>> Tovo: I wanted to take make a couple of quick comments that are going to echo some that have come before. masaurus for your acceptance and responsibility on this and thank you you and your team for leading a project that is incorporating some very careful environmental practices in this sensitive area and making sure that it continues along in a smooth way. I watched the testimony on this issue from the other side of the dais and I heard loud and clear the cautions about the particular environmental concerns that can raise the costs. I heard a lot of concerns from the public about the fact that maybe 359 million wasn't going to be the final price of this project, that the cost could escalate greatly. And so it's really distressing to me now to hear this dialogue because it certainly, I don't believe, was clear to the public that guaranteed maximum price and construction manager at risk and terms like that weren't as definitive as they sounded, and as you heard today it's clear that some members of the council didn't understand those terms as less than the definitive terms they sound like. So I think our department managers

and city manager have probably heard loud and clear what I take away the point of this discussion, which is that we need and expect to have discussions around costs to be more explicit in the future and not to rely on being asked the right questions. And you know, please, err on the side of overexplaining contractual relationships as they relate to cost because we need that information and the public needs that information before we proceed with major 57600 no. It passes on a vote of seven to zero. We'll go to our first briefing for today from the office of sustainability.

>> Good morning, mayor, mayor pro tem, council. I'm here today to provide an update from the office of sustainability. I hope it will be a pleasant counter point to some of the previous conversation. And I'm the chief sustainability officer for the office of sustainability. And what I wanted to do before moving into the bulk of the presentation was just take a moment to really reflect on how much leadership Austin has exhibited over many years related to sustainability. This is a timeline that just highlighted a few of the things that have happened that I think really demonstrate how far ahead of the curve our city often is in regards to sustainability. It certainly doesn't hit everything. We could probably draw a timeline that would go around this entire room and try to fill it in with all the achievements that we're sustaining now and planning on into the future. But a few of the highlights may include things that I think we tend to normalize these things and forget that their innovative and are used to having them around. In 1996 the adoption of the balcones canyon land habitat protection plan, that was one of the first habitat preservation plans in the country. In 2000 the approval of the mueller redevelopment plan, that neighborhood is the largest leed for neighborhood development project in the country and obviously still underway. In 2007 the adoption of the climate resolution by council, which the carbon neutrality goal by 2020 for city operations, the only other city in the world we know of that has a goal that aggressive is Melbourne, Australia. And one more highlight, starting in 2011 our ability to meet one of the directives in the climate resolution to power our city operations with 100% renewable energy, we are the only city in the country that owns our own utilities that is doing that. So there are a lot of things for us to celebrate and to be proud of in our long legacy of leadership and part of my job here is to do that celebration and also amplify what we're doing and continue the vision into the future. And one example of how ripple effects have occurred from the things that we have done as a city, going back to the establishment of the Austin Energy Green Building program in 1991, it was the first such program in the world that was created by municipal government. That program is still going strong and it has reached a 38% saturation in the single-family residential market, but it really kind of laid the groundwork for the creation of the leed rating tool of the U.S. Green Building Council eight years after our program was created, leed was created. And this just gives you a sense of the volume of leed projects across the United States and it doesn't even show what's happening in 135 countries across the globe now for green building. So the key points I wanted to hit on today were just to spend a few moments talking to you about the office of sustainability's mission and then I wanted to highlight the action agenda which you should all be aware of. We've been talking about this for awhile now. You've received in previous memo communication about it. I wanted to hit the highlights of some of the projects that are being tracked as part of the action agenda. So just a little bit about the office. Speak spent quite a bit of time and energy area the last two years really refining the mission and work program of the office of sustainability. Early on we moved the climate protection program into the office from Austin Energy and we have several different kinds of functions that I just wanted to mention briefly because I think sometimes people are still not sure what it is we do.

Everything we do is focused on collaboration across the entire city organization and also outwardly with strategic partners in the community. Mostly today I'm going to be talking about the functional area of providing a o'list stick framework at the top of the image and then also a little bit on incubating new ideas. But we also spend quite a bit of time implementing the city's climate protection plan and tracking the implementation of all the departmental climate plans that relates to tracking progress. And then we spend also quite a bit of time on education and technical assistance. A lot of the technical assistances internal to departments. For example, we assisted the police department with the creation of the carbon neutral fleet plan. We worked with resource recovery on the development of the ordinance for the single use bag ban. On the educational side, we do internal education with staff, but also a lot of educational programs in the community. We reach around 10,000 people per year through educational programs and about 100,000 people per year through web-base and social media. And so as you can see from the way I've been speaking we focus on internal city operations, the sustainability of that as well as sustainability more broadly in the community. And one of the things that we've spent quite a bit of time emphasizing is the definition of sustainability, which we've rolled out across the entire city organization. It's at the bottom of the screen here. That's the definition that we're encouraging everybody to use. It appears in imagine austin comprehensive plan. And really emphasizes what's called the triple bottom line of sustainability which brings together these three distinct elements. Often time we think of the environmental component of sustainability when we hear that word, but we're trying to emphasize creating the balance not only between the environmental issues, but also between economic issues as well as social and community issues. So you can use the three p's or the a's to remind you what the triple bottom line is, people, planet, prosperity or equity, environment and economy. I would also add that the whole concept of sustainability really i think is very much related to being a best managed city as well as reaching our overarching mission as being the most liveable city. So a big part of my job has been getting my arms around all the things that we're doing across the entire city organization, all departments, all 12,000 staff. Just because we have an office of sustainability sustainability, obviously that's not all being delivered by a small office, but by the entire city organization and everybody is art pa of it. Trying to create a comprehensive inventory of all those things and understanding how they fit together and being able to explain them in some sort of a comprehensive way has been a pretty significant challenge because there is so much going on. So one of the ways that cities who perhaps are not as far along as we are might have approached this would have been to come in with kind of a blank slate and they might have been said we're going to create a framework and then try to fill it in with a lot of activities and programs to meet the objectives we set forth in the framework. That would have been very difficult for us to do because we could have created this framework and then tried to cram all the things we're trying to do into it and it might not have ended up being a very good fit. So instead the approach we took was really to identify all those things and build a framework around them to create kind of a custom fit sustainability framework, if you will. And I think one of the strengths of this has been that it's really given us an opportunity to think about how we as a city identify and define sustainability and how broad that really is. And I think we're defining it more broadly than probably any other city at this point in time. So the framework that we created, some of the reasons we did this were to create that coordination to have a way we could track through performance goals and metrics what we're doing, provide annual progress reports to you and to the public, and within that, those set of goals, we created 10 areas of innovation and I'll explain to you what those are. Within the 10 areas of innovation there are four major signature

initiatives, so 40 in all. And over 150 -- I think about 180 projects and initiatives that we're tracking. One thing I do want to add is that this particular information and inventory that we're tracking today on our website mostly deal with the city's outwardly facing sustainability programs and initiatives. We're currently in a process of doing an inventory using the same framework for all of the internal corporate activities that we do, but that's a different conversation, so I wanted to make that distinction. So these are the 10 areas of action that we've identified. And quite a few of them are things that you're going to see in other cities, sustainability plans. There are things like mobility, energy and climate, water security, ecosystems and green infrastructure and zero waste. They're all extremely important and really I think a huge foundation of what we're building on. But in addition to those things, we are including things like arts and culture. The only other thing city that define arts and culture and sustainability is santa monica. The green economy and innovation, health and safety and liveability and complete neighborhoods. So obviously in the short amount of time I have with you today I can't tell you about all 10 of these or all 180. What I've chosen to do is highlight a few projects which relate to that last circle which I don't think i mentioned when I was showing you kind of the mission and the activities of our office. And that deals with incubating new projects. So so many of these projects are being delivered by other departments and in fact the briefing right after this is going to be a briefing on the electric vehicle program from austin energy. That initiative is contained within the sustainability action agenda. So there are a lot of different things you can hear about that you might be interested in hearing about that are part of the action agenda, but those would be best presented by some of those individual departments. So there are a few areas, though, where our office does leed projects. Most of what we do really is coordinating with others and trying to track what they're doing. The ones I'm going to talk about today are four projects where it kind of relates more to incubating new ideas and in some cases I think we might lead these projects initially and incubate them and then they might spin off and be taken on by somebody else, either another department or maybe even an external partner. So the four I'm going to hit on today are in the four areas of schools in use, green economy, complete neighborhoods and energy and climate. So as I was mentioning there are four of these signature initiatives in each category. So in this category of schools and youth and we also can think about it as learning, we have children in nature, which contains a lot of our initiatives, particularly in parks and watershed protection that deal with getting children and families outside. We have something on youth and careers, arts and music education, and then also green schools. No carrierringconnect 57600 it's a bit of an evolution from something we had previously done called environmental awards. There will be three in three categories of elementary, middle school and high school. There's small 3,000-dollar grant in each category. We're utilizing the boards and commissions as our judges and we will be announcing the results soon. We had 27 applications this year. I think this program is really going to grow and has the potential to attract significant funding from outside funding sources. The boards and commissions judges have been very enthusiastic and they said they've never had a more difficult judging project to pick three out of the 27 because they were all such great projects. And then there were four categories in the awards. There was an individual, business, nonprofit and then a city category. The business category we've less transitioned that into something that we call austin green business leaders. So that program is still relatively new, something our office is leading. Basically it was launched in august of 2011. We have 55 members who have gone through the office and more in the pipeline. Part of the purpose is to create an umbrella for all of the different programs and incentives that the city you want ornately has that are for -- currently

folk focused on. And in one place where an owner can easily find that information and then also have access to a peer to peer network. So the business is pretty easy. They sign up, download a scorecard from our website, they do a self score, get recognition and the other purpose behind it is to cross-promote and cross-market all these different programs. So this is just a visualization of all the different categories on the scorecard. It includes commute trip reduction as well as things related to healthy working environment. We're collaborating with a lot of different departments on this as well as externally with capital metro. And this just gives you a flavor of some of the gold members. There's levels of certification so these are some gold members and we're finding a lot of large corporate participants, but also a lot of small businesses. And the small businesses, a lot of times are those that they really don't have as much time or staffing to be able to go out and do the research to access all this information. We've been teaching a series of seven classes with the small business program on green business practices. So we're very excited about this program and we'll be reporting back to you as it progresses. If you know of businesses that you think might be interested I hope you will tell them about it. The category of liveability and complete neighborhoods is next. And there's a lot to talk about here. Once again we don't have time. We've got the mueller village, we have the green building program, we have a whole lot in the area of ending homelessness, but an area that you probably have not heard much about yet, so I wanted to tell you about it today and it's something that our office is leading, is something called the seaholm eco district. Eco district is a new program. It was created by the portland sustainability institute. We competed nationally to be selected as one of 10 cities to participate in something that they're calling the institute. We had grant funding to go to portland with our team and spend two days learning about eco districts and learning from these other teams about what they were doing. An eco district is really focused on large scale sustainability. It's not a rating system like leed. It's different of the. The example here is the pearl in san antonio. I don't think it's an eco district, but it could be one. There's a lot of focus on capacity building in this initiative and a lot of focus on public-private partnerships and it's really seen as a way to test things at more of a neighborhood scale. From my perspective and I've worked in the green building field for a long time, we figured out a lot at the individual site scale. There are a lot of challenges when we start to scale up sustainability, multiple property owners and we try to cross property lines, it deals with a lot of infrastructure issues. So this is really that middle scale. We've figured out a lot. This is really at the district scale and if you add up all the districts you would get your entire city. These are the categories in eco districts and a couple of things, we've had an initial partner meeting with property owners and developers in the seaholm neighborhood and in fact we're including some of the already completed projects such as the gables, which is now adding another phase, and spring condominiums. But one of the things that these partners are interested in a couple of highlights, one would be how can we brand the neighborhood and how can we provide messaging and education across the tenants and visitors that will come. Can we have something like a district dashboard. You could have an individual building dashboard that would show you your performance on energy and bert, but if we really maxed out rooftop solar in the neighborhood we could have a dashboard that showed how the entire neighborhood is performing. And then there's another concept called eco concierge that focus on once we build all these things what happens with that neighborhood? How do we expect people living and working in the neighborhood to behave? Do they do something or and how are they part of the solution? So the eco concierge is another concept that's gotten a lot of interest. So in the category of austin energy and climate, there's once again a lot packed in here on renewables, which includes the solar incentive programs, green choice. It

includes building energy retro fits with low income weatherization, the ecad ordinance, it includes zero energy capable homes which is another component of the climate resolution and that's a lot of code work being led by austin energy. But the one I wanted to highlight being led out of our office focus on local carbon offsets. So a carbon offset you probably know is a reduction in emissions of greenhouse gases that's made to offset emissions that have happened somewhere else. You may have seen an opportunity to buy an emissions -- a carbon offset when you're purchasing an airline ticket, for example. These are three projects that were done in 2010 with it was really a pilot to see if we could -- if there was interest in creating small local projects that would provide carbon offsets. And the large scale carbon offset market there really aren't any projects that are available locally here in austin. They're usually very large projects like methane recovery in a landfill. The smaller projects usually aren't a part of that. We were trying to test this. We have three projects that were funded through a competitive process, tree planting with tree folks and two solar installations with nonprofit organizations. So we found out there was interest and what we decided to do, and you got a memo on this back in september -- incidentally this is another area where we're continuing to tull fill the many different directives that were part of the climate resolution. The resolution said that we were directed to create carbon offsets for citizens and organizations here in austin and also we were supposed to focus on carbon neutrality for visitors and travellers and festivals in the city. So we just recently have launched this program, it's still in development, it's called positive impact on climate and community. Picc is our logo and it's a guitar pick. I'll explain that in a minute. One of the things I thought about when I came two years ago is we're known for being the live music capitol of the world and we're really known for being green and is there a way we can bring those things together and leverage toes those and have something very dial milk if we bring them together. So the idea was to bring them together with local sustainability projects. So we have partners that have signed up to work with us to create the program. We're still working out the details, but those include most of the very large event organizers, including austin city limits live, circuit of the americas, south by southwest, c3 and we also are partnering with the environmental defense fund. The environmental defense fund is providing our kind of nonprofit environmental oversight to help us make sure that we are being rigorous with the projects that we are selecting and that they are going to provide tangible carbon offsets. We're excited about working with all these partners. We've done some preliminary calculations, somewhere in the area of a million ticket sales, probably a low number for the events these organizations put on. Even if we only had one dollar per ticket generated, we could be generating a million dollars a year if everybody signed up for it. I think the idea is really that -- I would like to see it be a voluntary contribution through your ticket purchase. You would be given a chance when you're clicking the purchase box to add on something to really leave a legacy and a tangible value to community, especially if you're somebody coming in from out of town. They real they're having an so we're excited about that. We will be reporting back to you 2013. We will be selecting projects. And incidentally, wait this works, the office of sustainability and the city will maintain a competitive process and put out a call to community for projects. We will help manage the selection. And then we will offer up those projects to the partners and they can select which ones they want to fund through their ticket sales. So the financial transaction all go through the event organizers not directly through us. So wrapping up, we will be also reporting back to you around earth day with a progress report on how we're doing in all of the 40 areas. We have an online tracking tool that staff is using to keep us apprised of progress on things we're doing. We have a downloadable matrix on our website that details all of those. You also have a copy of the poster in your packet that we

created as a public information kind of communications piece that has -- we tried to use very simple language so that it could communicate to anybody. And also along with each one of the 40 we have what we call a citizen call to action. So if somebody wants to get involved it's kind of like what can I do? And it's in spanish and english as you will see on both sides of the poster. So anyway, we'll be reporting back with these progress reports. This will give you a sample and it's preliminary of what it might look like so you can see how we're doing. This is a good segue into the next briefing because plug-in electric vehicles as I said are a part of the action agenda and we're tracking and collaborating with the team on what they're doing. So that wraps up my portion of the presentation. Are there any questions? Comments?

>> Mayor Leffingwell: Councilmember riley.

>> Riley: I want to thank you for the presentation and for all the exciting work that your office is doing. It's great to see this kind of progress on a program that is fundamental to our city's values. I want to ask just a couple of questions. There were some elements of the climate protection plan that contemplated not just action on the part of the city and its internal processes or even things that we help this city-- help citizens do with us, but there was actually the idea that the community would be able to participate on their own and we would set goals for achieving carbon reduction for the whole community. There was one part of the plan that called for developing a program for recognition of households, businesses and other organizations receiving carbon neutrality and it sounds like we're making great progress on the business part of that as well as the footprint calculator for individuals. And then there was another part that talked about cooperating with other local and regional entities to provide technical and investigational assistance and to coordinate region-wide greenhouse gas reduction strategies. And I just want to get an update on where we are with respect to those community efforts. I know we've talked about a community climate protection plan so folks who are excited about this sort of thing would be able to participate fully in effort to reduce the carbon footprint for the whole community over time. Could you just touch on where we are on that. And in particular focus on what metrics we're contemplating to measure progress on that effort?

>> Sure. So that component is harder to get your arms around than our internal carbon footprint tracking and reduction because we don't have as much control over it and there are a lot of variables. So there are some things that we have been doing and that we're contemplating on a moving forward basis. So one of the things we're doing in term of metrics is we're actually working with university of texas on doing some an national lit ticks on if we were to work on all those things that we are doing, how far is that going to get us towards carbon neutrality. We're providing all those things to the community so they're inner related. I think once we have a better handle on what that means we'll know how far we have to go. But that's still more focused on internal operations. But for the community a couple of things. We've been thinking about one really has to do with enhancing more social networking as a tool to get more behavior change. We're talking right now with some of the other departments about creating some kind of an app where folks could commit to different actions and they could actually measure the greenhouse gas reduction impact of those actions and through social networking would build momentum and would kind of take on a life of its own. That's one of the things we're thinking about. We're looking at the rethink and sustainability action network as a way to organize the app. On a smaller scale we are working with a group called climate buddies that is out there in the

community trying to help people figure out what they can do. There's an interfaith organization that we've also met with several times that's focused on sustainability. In fact, one of their numbers just won an award yesterday, keep austin beautiful annual awards ceremony. So there are a lot of different things we're doing. Some of them are still in development. I hope that we get an opportunity to come back and report to you on the progress on some of those.

>> Riley: Great. I know there's a lot of interest in that effort as well as everything else your office is doing. I appreciate all the work that's going on. Thanks.

>> Spelman: Mayor? Let me broaden very slightly councilmember riley's comments, all of which i agree with completely. I was just looking at slides 33 and 34, and it kudos to me that somebody looks at slide 33 and they will say wow, look at all great things the city of austin is doing. And that's fine, but what i really like to elicit from folks is wow, look at all the great results the city of austin is getting. Look at how much better this is because of the things that the city is doing. And if there is a way of reworking our scorecard or our thought processes about how to show how well we're doing to focus on the outcomes rather than on the activities, I think that would be much better partly because we can justify what it is we're doing a whole lot more easily. And part is it will motivate everybody else to do the same kind of thing, gosh, i can do that too.

>> Excellent point. Couldn't agree with you more. One area that we're working on, I didn't mention this, but we are participating in another new national program called the star community it is a program being developed to create indicators community wide indicators for sustainability. It's very comprehensive across the triple bottom line. It's very challenging because there are a huge number of items to be tracked, but we have been one of the initial partners in creating that with other partners across the country, so we're beginning to test that now. And so that is the kind of thing that will tell us more how we're doing, what are the outcomes. In addition to that, though, we would like to find a consistent way to track these specific outcomes from all of the individual projects and initiatives that we're doing ourselves. If we do the community wide that shows us out we're doing as a community, but we couldn't be able to tie everything back to the city's activities. So that is challenging, but we have been meeting with the team that's overseeing the implementation of imagine austin. There are indicators still in development that are going to be tied back to imagine austin. We've had some really interesting conversations about what indicators are appropriate to tie back to imagine austin and then in addition to that there would be a broader set of indicators that perhaps our office would be responsible for tracking. I would love to see that leverage off some other efforts that have happened in the community such as the central texas sustainability indicators project and my dream would be to have that data available kind of on a live basis on a dashboard that members of the community could go to to see how we really are doing.

>> Spelman: We did a lot of this stuff over the last 10 years, but I think seattle gets credit for being the first one to come up with dashboard indicators and there are a bunch of other cities working on this. And a lot of the operations necessary in order to move from our activities to even a rough estimate of the outcomes that we've accomplished, act the by ourselves and with our partners and with the whole community requires a certain amount of analytic knowledge which can only be created by working with a whole bunch of other folks. We can't find that stuff

out all by our self, but working with seattle and portland and santa monica and everybody else we can get a sense of if we do this this is what we'll get. And this is what we've just gotten, I think you're right, is going to spur a lot of folks to join us to try to get even further along that road. Thanks.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: Thanks. So one of the things i wanted to ask about is -- one of the roles that your office plays is coordination, collaboration and making sure that the perspective of sustainability is sort of brought to the table. So I want to bring up two issues where I would ask if you're not already, to consider playing a part. And that is when we think about climate change and we think about we are perhaps experiencing effects of climate change, we've got drought, we've got strange weather and things like that, there are two places where I hope we can have that perspective. One is in the rewriting of the land development code. You know, if you look at sort of the disaster planning and things like that, one of the very broad reaching ways to address that is to make sure that you're building in ways that are going to be resilient to what you might expect, what might be a risk of happening. So have you been part of the discussion at all at this point or are there plans to get you all involved?

>> We have been a part of the discussion. I think that's an excellent opportunity for us to be looking at some of those things, which would help us -- really what you're talking about is climate adaptation as opposed to mitigating greenhouse gas emissions. How do we respond with the changes that we're seeing and the environment so that we are a more resilient community. I think there are a lot of opportunities in the land use code update and we will be involved in it.

>> Morrison: Great. And then on a somewhat related topic, we have a very thick, fat hazard mitigation plan that was updated and revised I think a couple of years ago we got a new version of it and it was probably before we had an office of sustainability. And it is rich with all sorts of ideas and actions and delineating risks and specific impacts that we might face here. And then talking about actions to mitigate those risks. And I think that that really might be a good place to start or at least to review to take to the table, number one, in terms of working on the land development code, but also number two, for you all to take a look at and see how you might play a part in that with the whole climate adaptation as you say, which is I guess the proper term.

>> I have not really looked at that, but I think that's a good pointer. And we will take a look at it. I think some of the adaptation issues relate to things like disease vectors, so I would expect some of those things to be coming up in a plan like that. Even other things, though, like really thinking about do we have enough cooling center in our city? If we have a major outage and we need places people can go in hot weather, those are the kind of things. I will look at that, thank you.

>> Morrison: Great. Next time around one of the first steps in doing such a plan is to prioritize the risks that we face based on the significance of the impact that they might have and the frequency or the chance that it actually will occur. And I'm sure that all of that sort of may in fact be changing, those evaluations. So to get you all tied in with the folks at hsem would be terrific. Thanks.

>> Mayor Leffingwell: Anything else? I guess I'll just say that it's not all gloom and doom. Yesterday at the kab awards ceremony, I know you were there, a lot of people got awards, but one of the organizations that got an award was the clean air force of texas. And they got the award primarily because of their role and there are others that play an important part too in helping to keep our region in a state of non--- , not -- attainment, not non-attainment. We're one of the few large cities in the country that are tail in attainment. In in the face of the fact that we're one of the fastest growing regions in the entire country and of course that means more cars on the road, more emissions, and one of the two big sources of carbon emissions of course being motor vehicles. And also in the face of lowering standards by the e.p.a. And frankly, I guess I would have to say I'm surprised that we made it, but I'm very glad that we made it. All those parts, a lot of different organizations, including your office, I'm sure had an influence on that. So thanks.

>> Thank you.

>> Mayor Leffingwell: Let's see. Councilmember tovo, I don't know if you anticipate this 10 will be a lengthy item?

>> Tovo: I don't know about 10. I can say that I did resolve my questions on 38.

>> Mayor Leffingwell: Unfortunately now we have speakers signed up on it.

>> Tovo: I'm sorry, just refresh my memory about 10 and it is pretty quick.

>> Mayor Leffingwell: We'll take up 10. There are no speakers signed up.

>> Tovo: I have a few questions for staff about 10. This is the aquatics plan contract. And I know we had a discussion about this at a previous council hearing. I'm not sure we have staff. Okay. I'll wait.

>> Here they come. They're on the way.

>>

>> Tovo: Thank you.

>> So at our previous council discussion about this item I think some questions were raised about the cost and I believe the response we got was that this is an absolute maximum, not necessarily an indication of how much money we'll spend, but it looked to me from the backup as if we will indeed be spending 250,000 on the contract. And I just wanted to verify if that's the case.

>> I'm going to -- I'm sarah hensley with parks and recreation and I also have ray hernandez here with me from parks and recreation. I think this is probably a question that rosie needs to answer.

>> Tovo: Okay. Thanks.

>> I also need more exercise as I run from the back. What we have is the execution of this agreement and right now the value of the contract that we are going to execute is \$250,000 for the scope of work that we have defined in the backup.

>> Tovo: So I guess the answer then would be no, it's not going to come in less than 250. We will end up spending \$250,000 on this plan.

>> That's the way we have the project scoped out right now. It's entirely possible that it might come in a little bit less if additional services are necessary, might come in a little bit more. We'll have -- the city manager's -- we'll have the city manager's authority to process any additional services that might be necessary that comes in over that, then we'll be returning to council for additional authorization.

>> Tovo: So in the backup I see the needs assessment, gathering public input, surveys, it says that the public facilitation consultant will be hired under separate contract with pard to complete the task. Does that mean at additional cost or within the \$250,000 included in this contract?

>> That would be an additional cost. The \$250,000 is just for this contract with

(indiscernible).

>> It's a little unclear to me based on the backup what we're paying for and what we're not. It's divided into six phases of development of the strategic master plan, abcde and f. C we just talked about, will be an additional cost. How about abde and f? I thought that was the scope of the contract.

>> The information that you're looking at in the backup are the six phases of the contract and this is work that's going to be performed by this prime contractor. The primary task of the large public involvement component that we've talked about in the past will be done under a separate contract, but there's going to be involvement with this contractor because they're going to have to work together and they'll be using a lot of the out puts that come from the public involvement and outreach that we'll enter into separately. There are still some tasks associated with that work under this contract, but the primary scope will be done underneath the separate agreement.

>> Tovo: But the other phases I talked about, abde and f are something that comes under the contract that we're contemplating today.

>> Yes.

>> Tovo: I guess I don't know how to ask this question. So I'm just going to ask it and see if any of the staff have comments about it. It distresses me a little bit to spend \$250,000 examining our pool facilities if the tossup is then we're not putting the money into keeping -- some of the challenges that we know we have with them. I guess could I have you speak to what are the known maintenance issues with regard to our pool facilities with our neighborhood pools and are those -- do we really need to spend \$250,000 figuring out what those are? Would we be better off

putting the money into making the fixes we know at this point, making the fixes we know need to be done because the money is so scarce?

>> Sarah Hensley, parks and recreation director. Very good question. I wish I could tell you that the answer was to spend the money on something else, but the very fact of \$250,000 would put a dent in what we believe to be the issues. While we have very well trained staff and very skilled staff in the areas of lifeguarding and pool management and maintenance and even to the extent of dealing with the day-to-day operation of the chlorine and the amounts that go into a pool, being able to test the levels, we don't have the depth that we need for an assessment of this size. I'll give you an example. In northwest area we have a pool that has a diving area that has -- you can go into that area underneath the pool and can see there's some seepage. But to extent of that and to structural issue and the integrity of that structure we need that expertise to be able to really tell us. What we believe is going to be an extensive list of things that are going to have to be either completely redeveloped, rebuilt or depending on that second phase, which is the extensive public involvement, the desire by the community to say, you know, instead of building a pool now with a diving well since diving isn't as well we would like to see an interactive area. So why this comes first is to give us a structural picture and the pullets of what's going on with our pools. The average age of our pools right now are 44 years of age total. We have a few ones that are younger, but most of them are fairly old. When that happens we begin to see serious issues related to structural integrity. There's no way other than to hire a firm to be able to tell us exactly what we're dealing with. And so that's why this is important. But the other component which you as council asked that we make sure you do is public involvement which comes later at another cost to say now that we know what we're facing, as ugly as it may be, how from a community point of view do you see these pools, are they functioning in the capacity as they are, do you want us to rebuild this neighborhood pool that's slick lane and a very ranch in nature or -- that's circular in nature or do we want to see something that's more state-of-the-art. It gives us the opportunity to say now that we know what we're facing then we know from public engagement what the public would like to see. Also it's the cost. Do you continue to make the programs free? What about swim lessons? Do we need to do a little more of that for free? And literally we'll walk all over the city to see and get that engagement about the structural integrity, about the sizes, about the amenities, all those things that we have not done since I've been here, but I don't think I've ever done in a way as a complete facilities look from a pool perspective.

>> Tovo: So is it your estimation that this is really the best expenditure we can make right now on our aquatics facilities?

>> Absolutely. I will say this, absolutely, because I'll be honest with you, right now we are band-aiding some of our pools to a point where if we knew what we really were going to face long-term, and I shudder to say this, but it might be better to say in a pool situation, this isn't viable. We can't even continue to keep fixing this because it's costing us more money to fix it than if we really just bit the bullet and completely replaced it. I can't tell you that now in any kind of certainty and feel comfortable and I think our staff would say the same thing.

>> Tovo: Okay. Thanks, that helps.

>> Cole: Mayor?

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: Hensley, can you tell us how many pools we closed within the past year?

>> That's a good question and I don't have it off the top of my head. But I know that Bartholomew is closed because we'll have construction. And then we have the pool behind the Carver that's been closed for several years.

>> Cole: The Carver museum, right?

>> The Carver museum. I think those are the two -- then we've had to close West Austin when we had construction there. The West End pool at Enfield, the Enfield pool will be closed because we're going to rebuild that through the bond program. This is off the top of my head. Bailey, thank you. But there will be others, I think, as we move along due to some structural integrity issues. I honestly believe we'll have serious issues down the road with some of our pools.

>> Cole: The reason I ask that question is I also share Councilmember Tovo's concern about when do you take money, which if this is going to be in excess of \$250,000, do you have any idea what the total contract will be?

>> I absolutely don't. I would not even venture to say. That's why I think Rosie was good about saying we know that it may be a little less than 250,000, but when you're really looking and you're literally hiring the folks from an engineering perspective to look at the structural integrity of a pool that has literally been built 40 years ago where now we may have some groundwater issues that are causing some decomposition of the concrete and everything, this is why it's so important that we absolutely do this.

>> Cole: I guess it would help me in my decision-making process to know what pools actually could use construction to actually be usable by the summer and what that cost would be as opposed to the cost that we're now planning to expend on studying the issue.

>> I would absolutely have staff look at that and see. And actually give you our best estimate of here are the pools that we anticipate will be able to be open during the summer of 2013 and here are the ones that we feel either by circumstances of redevelopment under construction or have some integrity issues that are concerned about, we will definitely prepare a Mexican-American memo that will come from -- prepare a memo that will come from the city manager's office to you.

>> Cole: Mayor, I'll make a motion to postpone that item. Can you have that done by the next meeting, December 13th?

>> Yes, I can.

>> Mayor Leffingwell: Motion to postpone by Mayor pro tem for one week. Is there a second? Seconded by Councilmember Spelman. Councilmember Morrison.

>> Morrison: I'm fine with postponing this, but I want to speak to what I think is a critical importance of doing this and make clear that number one without these evaluations, we're going to run into emergency situations in terms of disrepair that are going to cause things to be shut down. And if we get to that, they're more expensive to fix than they are if we find them before they're in bad shape. So it's absolutely critical and we know that we're on the tipping point now because of the age of so many of our facilities. I also want to mention that this is -- what this consultant is going to do is more than doing an engineering analysis.

>> Oh, yes.

>> Morrison: It's a very critical long-term planning for aquatics. And as we grow as a city they're going to be looking at demographics, they'll be looking at planned land use and growth so that we can actually take a look at where is it best for us to put our facilities so that we're not just guessing.

>> That's absolutely correct.

>> Morrison: Let me just say that as the summer's get aquatics will become -- it's true. Aquatics will become a much more critical element of public health and relief from the incessant heat that we sometimes feel. I also think that this is a reasonable amount. If you look at it -- I think we have something like 50 pools, is that right?

>> Yes, with splash pads and other things.

>> Morrison: So across the board it's 5,000 per pool, but that's not really a good measure because there are several other elements of the effort besides the engineering, including an inventory of our historic resources because some of our aquatics facilities are really terrific things. So we've already struggled with pools closing and free pools and the question about long-term for splash pads. Some people are really concerned about something we should be doing uniformly because safety and aquatics go together and making sure that kids have the opportunity to hearne how to swim, which is an -- an especially big challenge in the minority community. So all that being said i guess you might be able to guess, but I'm strongly in favor of this. If there are ways that we can do it less expensively, I'm certainly supportive of that. But the idea of us doing this plan is absolutely critical to the future of our city.

>> And it's long overdue.

>> Morrison: Thank you.

>> Mayor Leffingwell: Let me just say I'll support the motion to postpone. I don't understand what effect the information that you're going to gather in the next week is going to have on it. I mean, they're still going to have to go ahead with the study. But I guess it doesn't make much difference. I'll support the postponement. All in favor say aye? Opposed say no? It passes on a vote of seven to zero. Number 7, I'll entertain a motion that the city council of austin use the power of eminent domain to acquire the property set forth in the agenda for item 77 for the current meeting for the public uses described there in. Councilmember martinez to moves.

Seconded by councilmember spelman. All in favor say aye? Opposed say no? It passes on a vote of seven to zero. Now we'll go to our citizens general communication. Lane. Tta cooper? Lanetta cooper?

>> Mayor, members of the council, my name is lanetta cooper and I'm here to address the issues of governors over austin energy. City manager ott has recommended that they remain the governing body and I and many others who are talking later on agree wholeheartedly that we do not need a new governing structure. That doesn't have not really match the problem with the major issues involving delivery of electric service to austin citizens and to the ratepayers living outside the city limits. The euc correctly identifies the cause of the consumer dissatisfaction with austin energy. The recent rate case. It blames the time involved with the rate case instead of the real reason, which was a disorganized decision-making process that failed to deliberate on many issues raised by the parties. In sort, the public did not really feel that they did have a meaningful opportunity to be heard. When you raise an issue and you don't get an answer, even a no is better than no answer. The euc suggested independent board doesn't really solve this problem. To ensure competent consumer input into a consumer advocate with experience and regulatory financial and economic issues should be part of a process of an independent hearing process. The ability for pearce to cross-examine austin energy and other party witnesses would ensure greater credibility to any hearing examiner's recommends and should also be a part of the process. Using a contested hearing process that includes a funded consumer advocate to set rates is consistent with most states' rate setting procedures. And relying upon an independent hearing examiner to winnow down the issues for council deliberation is also consistent with other states' rate setting procedures. Establishing an independent hearing process would not only substantially abate any taint of arbitrary decision making, which is one of the primary concerns of austin energy ratepayers residing outside the city, but it will ensure all ratepayers, whether you live inside or outside the city have input into the decision making concerning austin issues directly affecting them and their lives. That is the electric rates that are charged them. An independent hearing process also acts as a form of management audit in that the parties providing meaningful analysis and commentary on the prudence of austin energy's operation. In short and to paraphrase tv and movie star trek introduces, by urging an independent hearing process to set rights I'm only simply asking you to boldly go where almost every major utility has gone before you. So if y'all have any questions I'd be happy to answer them.

>> Cole: Councilmember spelman.

>> Spelman: We did have an independent hearing examination process, then who would set the rates, the examiner or the city council?

>> Well, I was assuming that it would be similar to look where the hearing examiner makes the recommendation to the p.u.c. And you would maintain the role of the public utility commission. So instead of hours and hours and days and days of deliberation, the council deliberation would be shortened because the process would have been provided in a very organized manner, the recommendations would be clearly clinton eighted. The issues that are still in controversy would be winnowed down so you would be making decisions on fewer things and have more information provided in a balanced manner by all parties and in an organized manner which would greatly aid your decision-making process.

>> Spelman: This would not have presumably improved the organization skills of the hundreds of people we heard from so what would have happened is the examiners would have gone through what we went through, heard from lots and lots of people and they would have organized and winnowed all those issues and presented them in a nice clean package for us.

>> There would be a list of issues that would be resolved before you could set a regulatory rate. That's why I recommend you have a hearing examiner that would take the time. A lot of the public comments would still occur, but at you call those protestant statements. And you would actually want people to become parties. You would winnow it and you would only -- if you have a lot of people wanting to become parties, they can, but you group them together by common interest. And limit their time, their due process concerns. But they would still have a right even as a group to cross-examine. I think that's one of the things that was a concern about some of the people who live outside the city. They didn't really get a chance to question parties' assertions. And some of the issues they raised never even really got acknowledged. And it's really not the council's fault because what came to y'all was a disorganized process. And some of the things that were brought up at the euc didn't get forwarded up here.

>> Spelman: Thanks very much. Appreciate it.

[Applause]

>> Cole: Mr. jeff jack?

>> Councilmembers, city manager, I'm jeff jack and here to speak for myself today. Austin energy is the city's largest enterprise. Its budget is over a million dollars -- a billion dollars a year. It is truly big business. But it's not just a business. It's a community asset. An asset that needs to be managed to the benefit of all austinites. Due to the structural situation with our city budget where all property and sales tax revenues are needed to cover the public safety budget, the transfer from austin energy is essential to support the rest of the city operations. Without this management perspective, other city services such as parks, libraries, pools, programs for children, out youth at risk are in jeopardy of losing funding. As such the manage of the utility should be accountable to the people of our city and the best way to ensure that is to continue to have the elected officials ultimately responsible for austin energy. An independent board would not accomplish this public need. I believe the council oversight is required by the city charter and this responsibility would be in jeopardy if we had a change of method by ordinance alone. I think if we did that by ordinance there would be some legal questions about it. While there is problems with electric utility commissions in the past, rate hearing process as lanet target ads just mentioned, I think it's being abandoned by the austin city council. I think we can deal with that with the composition of our electric utility commission. There is no immediate need to change the government structure. If we were going to do this by charter we couldn't do it for two years. As recommended in the city manager's memo from yesterday, he recommends staying the course and leaving the responsibility of austin energy with the council. The vote this past november to bring single member districts to our city council is a clear indication that our community wants more representation and accountability from city management and from the city manager and not less. I believe that an independent austin energy board would be terry to the desire of the community for more accountability. Therefore I suggest that no action be taken by this council

now and that if this issue remains a concern that any changes be addressed by the single member district council coming in 2014 and by a future charter amendment ballot put on before the voters. Thank you.

>> Cole: jack, I have a couple of questions for you. It sounded like you were very supportive of the city manager's recommendations, but I just want to make clear -- I want to make sure I understand your statements. One, you don't think that the council should make a change without -- any type of change going to an independent board without an election.

>> I believe that's true.

>> And you're not parsing our responsibilities between what legislative or otherwise. Just in general --

>> in general I believe that the council is the ultimate responsible party and i think it should remain that way.

>> Cole: And then when it comes to ratepayers who live outside the city, you suggested that we could accommodate their concerns with seats on the euc?

>> A lot of the pressure is being put on people who live outside the city who feel like they didn't get a fair shake. I think you could accommodate that by having a better process and with some of the recommendations you heard before could accommodate that.

>> Cole: Thank you, councilmember tovo?

>> Tovo: I know some of our speakers will probably make this point, but since it came up I want to point out that I believe -- somebody can verify this for you. I believe that four of the seven euc members right now are out of city ratepayers. So we actually have very good representation right now on our euc if not overrepresentation of out of city ratepayers on the average utility commission. Roy is holding up a number that says three. I know this is in carol's comments later, so maybe they can verify the number. In any case, it's more than two. And maybe as many as four.

>> Cole: Carol biedhzycki. You call her carol b, I like that.

>> Good morning, city councilmembers, my name is carol. I'm the executive director of texas rose, which stands for ratepayers organization to save energy. I'm speaking today about the proposed austin energy governing board recommended by the electric utility commission at its october 29th meeting. When compared to the current process, the independent board may be less, not more accountable to the public, and citizens may have less, not more access to the decision-making process. These are some basic concerns. Number one, the euc recommendation is based on a report that does not reflect the viewpoint of consumers. When the consultants' report was in progress, we in the consumer community wanted to participate, we were informed that our ideas were outside of the scope of the report. Proposals that we believe were viable, some of you have heard of already, some you will hear of before we're finished today, we're never described and

evaluated for the euc's consideration. Our second concern is that the euc's recommendations provide no guarantee that residential and low income consumers will be effectively included in the process. As you know in the past city council has been responsive to citizens' pleas after they were heard and rejected by the euc. With the independent board consumers have no recourse if the proposed board makes a decision that is not favorable to them. Number 3, the euc recommendation pays little attention to balancing resources of the utility and its board and residential and low income consumers. The board members get paid. They can hire experts to provide them with technical and legal support. On the other hand there are no provisions made to provide resources for advocacy groups or an office of consumer council to represent residential and low income consumers. And number four, I'm not sure that this is going to resolve the problem that we have heard about continually about customers who live outside of the city. As has been pointed out, we already have -- according to my information four of the seven members of the euc live outside of the city. That may be three. That's something that I'll have to check. However, the point is that throughout this whole process there were three people on the euc there were -- who lived in the environs during the consideration of the rate case and that didn't seem to make any difference. That means there's something wrong with the process because there was representation. Also, the people in the environs are able to appeal, which they have done. They've appealed the rate increase and does that --

[buzzer sounds] -- right go away if we have an independent board? Thank you. I'd like for you to consider all the alternatives before you make a decision and I'm asking you to kind of put the brakes on this appeared take a look at some of the ideas that we have before you vote.

>> Cole: Thank you, carol. Now we have big oakey. Bill oakey. Not here. Kassi darakhshan. Kassi? Do you want to say your name?

>> Yes, kassi with hostel financial u.s.a. Myself and michael allen have signed up to speak during citizens communication before we knew that this -- the hostel agenda and agreement was going to be on the agenda, so we withdraw our names from citizens and will speak on item 35 at that time.

>> Cole: Tom smitty? Ruby roa?

>> Good afternoon, mayor pro tem and councilmembers. I am also in agreement with the previous folks that spoke not to change the governance board. I am a member of the ladies of charity of austin and we serve and no carrierring connect 57600 ... especially the poor. The customer service charge was a very important component although I think it's a little high. In developing any rate case of the utilities, we must always keep in mind our neighbors, our community that are less fortunate than you and i. I'm sure you know the good people that I'm referring to. There are the single fathers and mothers, the working poor that make a minimum wage or live on tips, it's our musicians, construction workers that work 14 to 16-hour days and only making \$100 a day. And the folks going back to school to learn a new trade for a better job. The high fees proposed in the new rates was a community concern expressed to you during the hearings. When mayor, you and council adopted the new rate increase this year, you responded in a way of accountable elected council should and I thank you all for that. The euc recommendation calls for a paid independent board to approve the rate increases instead of city

council. Who on this board will be accountable to the poor? The way I read the proposal, no one will be. The current process is not perfect, but sometimes it works for the underprivileged because this elected council is directly responsible to the community for what happens at austin energy. That's the way it should stay. We also would like to suggest and encourage the mayor and council to have an effective consumer advocate that is knowledgeable and that has access to technical and public policy regulatory expertise --

[buzzer sounding] -- involving electric operations. Thank you for the opportunity and thank you for your continued service and I do believe you will do the right thing. Thank you.

>> Cole: Thank you. Clay dafoe.

>> I'd like to speak to you guys today about one very important concept I want you take to heart when you are voting on over 100 items on the agenda each meeting. Character. Character. I want to tell you a little about it. I'm not sure where mayor leffingwell and councilmember martinez went just now but it's reflecting poorly they disrespect their citizens. We have almost 100,000 people in austin, they can't even listen to 10. That's pathetic. I'd like to start off with a dale watson song that reference cdbg. Dale watson is an austin country music legend. I'm going to do this in jennifer gale style. In recent years things have changed so quick we didn't even notice but soon there's going to be no legend among us. Just like the mom and pop stores soon they are all going to be done. ♪♪ Just like the deejay when he plays a real country song ♪♪♪♪ see, we need to think in addition to character and integrity. Does it show integrity to give corporate welfare, to give 9 million to apple, 2 million to visa, 15 million over 10 years, or to give \$250 million to a billionaire race car promoter who lives in england or is at least from there. Does it show make or show integrity to implement the imagine austin comprehensive plan? I don't think so, folks. You are implementing an agenda 21 style. Globalist corporatist plan that will destroy austin weird. So we need to think about the character and austin is losing it. We're losing our character here in austin because of your actions on this council. Do you really care about small business? The high ball. The hispanic village, art's rib house, waterloo park, major downtown park, woolridge park, ruta my on south congress. These are some of the businesses in the past two years destroyed by your actions on the holistic scale, austin city council. Broken spoke, hole in the wall, sheriff charlie's are in danger due to your unfair and unjust endorsement in actions promoting corporate development. We need to rethink this. We need to protect austin weird. Not destroy it. And we do this by letting the natural market, I don't like the term free market, i call it the natural market take hold. You guys need to start studying commission. I'd be happy to talk economics with any of you any time. But this is part of your job. Let me remind you your duty is to protect your rights, not give away special deals. Thank you coal cole thank you, clay. Next we have roy waley.

>> Howdy, y'all. I'm ray waley representing the austin sierra club today and the austin sierra club asks that the city council continue as the governing board of austin energy. But have it done in a completely separate meeting on a separate date so that this important issue can get the focus that it deserves. I'm handing out comments from karen hadden who did not get to speak today, but her comments reflect austin sierra club position and I'd like to echo the position stated by the previous speakers on this matter. We also say the same. Now then, one of the reasons we want you to do this is to continue as the governing board is because you were given a very clear

example earlier this morning on what can happen when you relinquish council oversight. Which is what you did on wtp 4. And if that had come back again and again, you would have had that information in realtime. You don't want to make that same mistake with our energy issues. So we ask that you continue to do that as the responsible parties. I'm going to read briefly, though, from miss hadden's remarks, just this one paragraph. We don't have to look very far away, we just have to look south to our neighbors in san antonio to see what kind of problems we can have. And so quoting now, san antonio's disaster should serve as a lesson. They couldn't get control of energy as the utility rushed head long into pursuing more nuclear reactors. They ignored city council votes and spent money opposite to the way specifically set by city council. Two board members refused to leave when asked to resign and it took a while to remove top executives after a financial lie was perpetrated. A secret \$4 billion increase in the cost of nuclear reactors. The whole fiasco cost c.p.s. Energy \$400 million that they had to write off. \$400 Million. They could have put pollution controls on their coal plant instead and pursued energy efficiency or renewables. 93 Million allocated by efficiency by the city council appears to have gone to pursuing nuclear reactors instead. We do not want -- end quote. We do not want to have that situation here in austin, texas. I'm sure y'all don't want to have that situation here in austin, texas either. Thank you very much.

[Applause]

>> Cole: Thank yo mr. waley. Councimember spelman.

>> Spelman: Just a quick question. I didn't ask the other speakers on this subject the same question so I'm asking your personal opinion on your part, not necessarily speaking for the sierra club, but one of the proposals that came before us was for city council to maintain its position as a governing board but to add one, two, three, some other number to our number representing the out of city customers. So instead of seven of us or in a couple years 11 of us voting on austin energy issues it would be 13 or 14, for example. Do you have any comments on that?

>> Well, I would ask where you are looking to add these people. Are we talking about people outside of the austin city limits?

>> Spelman: Outside the city limits, inside the surface area.

>> I think that it would be a better proposition to add to the euc on these issues instead and not have voting control outside of the city limits.

>> Spelman: Okay.

>> But to have that input. And possibly to take a little bit of extra time and have the euc board meet outside of the city limits to address what their concerns are so that nonaustinite ratepayers can have representation. And have their opinion put forward and let that be part of the report that comes to the council and your decisions made off of that input.

>> Spelman: Okay, so from your point of view the input is more important than the actual decision-making authority.

>> Yeah, I wouldn't advocate for them having actual voting authority on the board.

>> Spelman: Okay.

>> That is a sierra club position. I can't speak for anybody else that is representing any other group here today.

>> Spelman: Okay, but that is a sierra club position, not a personal roy waley position.

>> Oh, you don't want to know my opinion.

>> Spelman: I just asked for it.

>> I'm not here to state personal opinions and i wouldn't. I'm only here to support sierra club position and that is a sierra club position.

>> Spelman: Thank you.

>> Cole: Thank you, mr. waley. We have no further speakers for citizens communication so city council will go into closed session to take up four opportunities. 071 of the government code, the city council will consult with legal counsel regarding item 80, legal issues related to open government matters, item 81, legal issues relating to the november 6, 2012 election. 074 city council will discuss item 82, personnel matters related to appointment of a new city clerk. 072 of the government code the city council will discuss the following item, item 83, real property acquisition of approximately 46 acres located east of u.s. 183. Without objection, the council will now go into executive session. Mayor Leffingwell: We're out of closed session. In closed session we took up and discussed legal issues related to item 81, personnel matters related to item 82 and real property issue related to item 83. We did not discuss item 80. So it's after 2:00 p.m. Council, with no objection, we'll pick up our consent items on the zoning cases before we go back to regular order.

>> Thank you, mayor and council. Greg guernsey, planning and development review. I'd like an offer for consent on the ones where the public hearings have been closed. First one is number 84, this is to approve on second and third reading rezoning of property at 5616 south first street to townhouse condominium. Again, this is ready for consent approval on second and third reading. Item 85, to approve third reading for the property located at 4700 westgate boulevard and 4701 sunset trail to rezone to general office conditional overlay. This is ready for third reading approval. Item 86 will be discussion. Item 83, for the property located at 300 east fifth street. I offer this for consent approval on second reading only. Just second reading only on item number 87. Continuing on to to 00 items where the public hearings are open and possible action, item number 88, 89, 90, and 91 have been withdrawn. No action is required of city council. 02 for the property located at 9310 georgian drive. The applicant has requested postponement to JANUARY 17th. Also on 93, for the property located at 9310 georgian drive, applicant has requested postponement to JANUARY 17th. Item number 94, case 01 for the property located at 3206 west avenue and 3205 and on 7 grand view street, the neighborhood has requested postponement to JANUARY 17th. The applicant agrees. Item number 95, for the property

located 808 west 34th street, the neighborhood has requested postponement. Applicant agrees to january 17. Item number 96 for the property located at 3316 grand view street, neighborhood requests postponement to january 17. The applicant agrees. Item number 97, for the property located at 3206 west avenue, the neighborhood requested postponement to january 17th and the applicant agrees. Item number 98, for the property located at 715 west 34th street, the neighborhood requested postponement of this case to january 17th and the applicant agrees. Item number 99 and it will be a discussion and postponement request. Item 100 is a discussion case. Item 101, the applicant has requested a one-week postponement on this case to your december 13th meeting. Item 102, c14-2012-0121, this is zoning change to multi-family or mf-4. Zoning and platting commission recommendation was to grant multi-family residence and this is ready for consent approval on all three readings. Item 103, c14-2012-0113, 7003 east riverside drive to zone to townhouse condominium residence neighborhood plan or sf-6-np. Planning commission recommendation was to grant townhouse condominium residence conditional overlay. Neighborhood plan sf-6-co-np. Ready for first reading only. Item 104 discussion item. 105, To rezone to neighborhood commercial. Planning commission recommendation was to grant neighborhood plan go-np and this is ready for consent approval on all three readings. Item 106, c 14-2012-0117, this is to zone the property to limited office, mixed use. Planning commission recommendation was to grant limited office mixed use combined district zoning. Ready for consent approval on all three readings. 107, C 14-2012, 0119 for property located at 14233, the lakes boulevard, this is to zone property to multi-family residence, low density or mf-2. The zoning and planning commission recommendation was grant mf-2 and this is ready for consent approval all three readings. Item 108 for the property located at 818 and 826 patton avenue, this is a zoning change request to general commercial services or cs district zoning. Zoning and planning commission recommendation grant the zoning and this is ready for consent approval all three readings. If,.

>> Mayor Leffingwell: Catch your breath there. Okay. So the consent agenda for zoning cases is approve item 84 on second and third readings, to approve item 85 on third reading. To approve item 86 on -- excuse me, disregard that. To approve item 87 on second reading and we bring back for third reading on DECEMBER 13th.

>> Yes, as you wish.

>> Mayor Leffingwell: And then to -- noting that number 88, 89, 90 and 91 are withdrawn. To postpone item 92, 93, 94, 95, 96, 97 and 98 until JANUARY 17th. We'll come back to 99. To postpone item 101 until DECEMBER 13th. Close the public hearing and approve on all three readings item 102. To close the public hearing and approve on first reading only item 103. To close the public hearing and approve on all three readings item 105, 106, 107, 108. And that is the consent agenda.

>> Move approval.

>> Mayor Leffingwell: Councilmember martinez moves approval seconded by councilmember spelman. Councilmember riley.

>> Riley: Show me voting no on item 85.

>> Mayor Leffingwell: Item 85, show councilmember riley voting no. Councilmember tovo.

>> Tovo: Mayor, I would like the record to show me voting no on 87 and recused on 94, 95, 96, 97 and 98.

>> Mayor Leffingwell: Okay. And councilmember tovo will be shown voting no on 85.

>> Tovo: That was 87.

>> Mayor Leffingwell: 87, excuse me. That was councilmember riley on 85. And recused, councilmember tovo recused on 94, 95, 96, 97, 98. All in favor say aye. Opposed say no. Passes on a vote of 7-0 with the exceptions noted.

>> Thank you, mayor and council.

>> Mayor Leffingwell: Come back to the discussion postponement. That is number 99.

>> Item 99, it's a zoning change request to central business district urban redevelopment district and central business district historic landmark, central urban redevelopment district or cbdh cure. The applicant is coming forward with their first request for an appointment. This has been on your agenda before but staff is requesting postponement. The applicant requesting indefinite postponement. I'm aware of two parties, one of which is in the audience, which is objecting to the indefinite postponement but the applicant is here a mr. whellan is here.

>> Mayor Leffingwell: Since the discussion postponement, we can hear from the applicant and the folks who oppose the specific postponement request. ben krugat is here to speak.

>> Mayor Leffingwell: Is there someone to speak for the other side?

>> Ben krugat and we are requesting an indefinite postponement, thank you, and there you have it. We're trying to reevaluate some of our alternatives here and we would like more time to present it to the city.

>> Mayor Leffingwell: Councilmember tovo has a question for you.

>> Oh, sure.

>> Tovo: I wonder if you could talk a little more about that because you've been in the process for a long time. And I wonder if you can talk about what you hope to achieve in this time.

>> Yeah, sure. So we're visiting with -- you know, we have a valid petition against us and we need more time to speak with all the neighbors, there's a lot of neighbors. And we're also on the - the proposal side, we're visiting with some consultants to help us take a closer look at the -- specifically the setback issue and we just need more time with that.

>> Tovo: I guess I have to ask some followup questions. Why didn't you bring in that consultant earlier? It's been clear, you know, there's been concern from your neighbors for aen look time.

>> Sure, sorry --

>> Tovo: There's been concern about the setback including other issues so I'm wondering, I believe, and I'm now not finding the document in front of me, but I think you started going through the partly cloudy process back in january, probably earlier and there were seven scheduled times that planning commission and others. So what accounts for that almost year lag time?

>> Visiting with neighbors, having conversations and discovering new things and it's -- it's just been -- I'm here representing david and he asked me to ask for some more time.

>> Tovo: So what -- why such a long period? I mean from now until march is a long period. We don't often get postponement requests for that length.

>> I think it's complex and it just takes time. I'm not exactly sure.

>> Tovo: Okay. All right. Thanks.

>> Michael whellan on behalf of thomas property. You are correct, it's been at partly cloudy seven times. This is a 2011 zoning case. Thomas properties, neither thomas properties nor the owners of 816 congress which is layman has ever received a call from the owner in that one-year period since they filed this to have any discussion regarding to no parking or the loading or the overlay despite the many hearings that we've had. They already received one indefinite postponement on april 24th at planning commission and I know that guernsey emphasized this is the first one here at council. He did a nice job of doing that twice. But it was an indefinite postpo APRIL 24th. They waited until the last po OCTOBER 23rd, TO BE HEARD At planning commission. The reason we need to move on, there is now some am beigy active that has been inserted by the applicant related to relaxing on the west side. I think before the ordinance gets written by staff, it would be great to have some clarity by the council as to what the policy is in the downtown plan. So I would encourage us to go ahead and have this heard as soon as possible. And today would be great. against I emphasized this is the first request so maybe next week would be a more convenient time but nothing is going to happen between now and march or april or may and june in terms of their discussions. They haven't reached out to anybody yet and there's a valid petition signed by everybody including saffaty who live right across the street.

>> Mayor Leffingwell: I've got a question for you. Since it is the applicant's first request, I feel somewhat inclined to grant that request, but not an indefinite request. On the other hand, one week seems a little bit short. If you want to have any -- SO WOULD JANUARY 17th, This is the next meeting after that, would that be something you could endorse?

>> I'm open to any suggestion and I would demur. Before staff starts drafting the ordinance for the downtown plan. If council thinks that will be enough time to provide that clarity, then I think that would be great.

>> Mayor Leffingwell: Well, I think it sounds like a fair compromise between indefinite and next week.

>> Well certainly, yes, a fair compromise between the two, I would agree.

>> Mayor Leffingwell: Okay. Thank you. Council, I'll entertain a motion on this postponement request. Mayor pro tem. So moved?

>> Cole: January 17.

>> Mayor Leffingwell: Mayor pro tem moves to postpone until JANUARY 17th. I will second. Further discussion? All in favor say aye? Opposed say no. Passes on a vote of 7-0.

>> Would you like to consider the other discussion postponement?

>> Mayor Leffingwell: Which one is that?

>> It's item number 104, case c 14-2012 --

>> Mayor Leffingwell: Yes.

>> 0114. It's for the property located at 2040 wickersham lane. This is a zoning change request to community commercial mixed use. I believe sara crocker is here representing adjacent property owners and miss crocker is requesting postponement on behalf of adjacent property owners although I don't know a particular date. 17th? JANUARY 17th. vaughn would like to present this case and move it forward for discussion today.

>> Mayor Leffingwell: First request?

>> It's the neighborhood i guess you could say adjacent property owners' first request.

>> Mayor Leffingwell: Can we take a couple minutes from each side to discuss their perspective on the postponement? Keep in mind that not an iron clad rule but it's our custom to grant the first request.

>> I understand, sir. Good afternoon, mayor and council. My name is rick vaughn. I would ask that we pull up 104. I have two exhibits.

>> Mayor Leffingwell: Mr. vaughn is it?

>> Yes.

>> Mayor Leffingwell: You are only here to discuss the postponement. Not the merits of the case.

>> Okay. Right. What we would like to do is go ahead with first reading today and go for second and third readings next week. We have a lot of issues financially with the developer where he's trying to go ahead and get the zoning approved this month so they can go ahead and move forward with the development. The neighbors have been working with the developer. The immediate neighbors to my understanding do not have a problem with this. We have a letter of support from the -- where at least nonopposition from the people of the east oltorf, riverside association, and we would very much like to proceed with first reading today. If there's any questions.

>> Mayor Leffingwell: We'll hear from the other side.

>> Good afternoon, ladies and gentlemen of council, my name is sara crocker. I was contacted several months ago by old friends who live in this area and have lived there quite some time and they just wanted me to check out the case. And find out what was going on. They have no problem with what the developer is basically proposing with the 64 units and having ground level retail would be great for this area. Their only concern was, and I've spoke and worked diligently before planning commission, they did not want a convenience store and they did not want the sale of off-premise liquor. There's a proliferation of convenience stores in this area, the crime rate is very high. There's -- and it's the one thing that they didn't want. We didn't have a problem with food sales where you could have a deli or a beer or glass of wine, but there are [inaudible] within walking distance, plenty of convenience stores you can get a beer or wine if you like. vaughn and I worked this agreement ought, he talked to his client about it and it was agreed to and supported at planning commission and it's part of the ordinance that you have in front of you today. It was part of the recommendation. I don't know if it's in the ordinance. Pardon me. And that was only objection. Up until last friday it was my understanding that deal was still whole. When I heard back from the case manager on friday, he told me no, it's posted for first reading to remove that particular condition. In other words, to go back on the deal that had been made with us. It wasn't until I downloaded the backup that I realized they had submitted a t.i.a. On the 15th of november to exceed the 2,000 trip per day. That t.i.a. is in review. I was a little disturbed because it only has 27,000 square feet of shopping center use listed and 64 dwelling units when it's obvious they intend to put in a convenience store and letters of intent. Long story short, I'm all for it going on first reading if it's passed with the planning commission recommendation and the agreement that was made. Otherwise I would request it be postponed until the 17th. The reviewer who had the case is no longer with the city and they are going to get a brand new transportation reviewer tomorrow. Unless this case is approved with the 2,000 trip per day limitation, it can't be final, the zoning cannot be is approved so the correct number of trips could be placed in the ordinance. I don't know how it could possibly be heard today and put back on the agenda vaughn stated.

[One moment, please, for change in captioners]

>> so, now council, without objection, we recess this meeting of the austin city council and call to order a meeting of the austin housing finance corporation for the consent agenda on that.

>> Good afternoon, board of directors. Betsy spencer, director of the austin housing finance corporation. I have two items on consent. One suspect minutes of the previous meeting on

november 8. The other is an increase no a contract originally approved to amend the contract from 600,000 up to 850,000 for a life works project. In this negotiation, the develop did agree to add an additional 10 units of permanent, supportive housing. So I offer both of these items on consent. is there a motion for approval? Board members morrison and spelman. All those in favor, please say aye.

[Chorus of ayes] opposed, say no. Passes on a vote of 7-0. So, without objection, this meeting of the austin housing finance corporation is adjourned, a we're out of recess and return to the city council meeting. We go back to start picking up -- item number 7. There's one speaker. John denisi.

>> Good afternoon, mayor and council. With winsted pc on behalf of the applicant. This is the street name change which is before you on november 8 and was postponed for further review, and the time that we have between then and now, we've been working with a couple council offices, and some of the information that was relayed that evening by the neighborhood was compelling about the history of the area, and so we would propose to go back and, if this is approved, to engage a professional historian to research the site in the area, to the river, to the nan family and chism trail and provide that to the historic officer and a plaque provided in a public plaza at the site, as part of the project. And, so, with that, we ask for your support of the application.

>> Which is to change the name to shore district drive?

>> Yes, sir.

>> The reason I ask that is because there's -- the posting language here is different from last time, or another name determined to be appropriate.

>> Yes, sir. we have a speaker named jiji, but that may be a typo. Anyway, they don't want to speak.

>> I have a question. mayor pro tem. can you tell us why the name shore district drive is important?

>> It was important to us in terms of neighborhood enhancement because it tied the location to the lake and to the water front, and we chose that, it was not our first choice, but we came up with that choice because it was linked to the water front overlay sub districts and using the same nomenclature.

>>Cole: thank you. Mayor, I will move approval. moved to approve the name change on all three readings. Seconded by council member spelman. Council member tovo.

>> I've not changed my mind, I don't think there is a reason to change the name of the street that has been in place for decades and it should remain unless there is a compelling purpose to change. It I think we heard a lot of good testimony from the neighborhood about why they wanted to keep arena as the name of the street and try to remember what those arguments are.

We received at least one note saying they were unable to be here today to speak for themselves but they did research. I appreciate your willingness to incorporate that history and continue the research and into the site, I think that is a great gesture and I look forward to seeing that happen one way or another, but I would say the name is also critical. That's about it. I think it should stay as it is. council member spelman.

>> Mayor, I agree completely. If the people who are objecting have addressed on the street. As I understand, it no one is objecting who has an address on the street. Is that correct in.

>> That's correct, sir.

>>Spelman:

>> Thanks.

>> Just to be clear there only two property owners on the street, the applicant and one other. I concur with council member tovo, I think this opens up the discussion about the history of the area sew I appreciate what you're talking about, but i think that, you know, for me, we can get into the weeds of the argument, but it is really a big picture question for me, and that is, in terms of place making, you know, that's one of the challenges we have as we're turning over neighborhoods that could pretty much be expected wholesale with the east river side corridor, in terms of place making and how do we -- how does this -- how do we know this is going to be a location that is a location that is sort of embraces the character rather than sort of just sweeping the streets clean and building something that could be anywhere and when you drive down east river side corridor, you don't know what city you're in. We're in danger of that, and when you make decisions like that, like this, it is my belief that keeping the place name that is there right now will help us create a better future. So that's why I won't be supporting the motion. all those in favor, please say aye.

[Chorus of ayes] opposed, say no

[CHORUS OF NOSt]

>> Passes on a vote of 5-2 with council members morrison and tovo voting no. Item 35. City clerk, can we combine the speakers on items 35 and 36? They should be the same speakers. Any statemented from council members, or do we want to go ahead and hear from folks?

[Called name]

>> I think I can --

>> you've changed since last time.

>> I'm michael, on behalf of hostel international. I think we reached agreement based on some hard work but sara hensley, parks director. I've done a revision that incorporated four changes that I've circulated, I think, to everybody, including staff. Those are the deletion of a 0, which

discusses -- which would have allowed either party to terminate with 180-day notice from a five-month contract. The ymca maintenance and operation language, over the break ted retyped into this agreement, which is what you see 1 of the agreement, including the new provision, which was added today on agenda item number 24, which is reporting annual reporting which 1 d, so annual reporting, and then, I have -- instead of the hostel being responsible for all the codes related to code compliance that would be the maintenance division. Finally, the one thing that needs to be changed on the operation and maintenance is, in addition to the following sentence, that miss hensley has asked us or has been communicated to me would like us to add, and I will read that one sentence in so the record reflects the one sentence and we can be added without any dispute later. The sentence added somewhere in 1, quote, the hostel -- or hiusa would be responsible for such maintenance or repairs if the problem is a result of improvements or work performed by hiusa or an hiusa contractor, period. Finally, contracting, paragraph 12, we went back and forth and I'm told pigs get fat and hogs get slaughters and I should stick with two parking space force staff at this point, so we will change that to simply have two parking spots reserved for staff and be done with this thing. So that would be the proposal that we have. I believe sara hensley is in agreement but I cannot speak for her. I can speak for somebody else. Thank you.

>>Mayor leffingwell: okay. So I'm assuming that cassi is not going to speak. Jim ready? Jim ready also, jim ready is not here. Okay. Council member martinez. We take them one at a time. take each one at a time?

>>Mayor leffingwell: yes. I want to make sure there is no one signed up on -- okay. which one would we be amending with that language, both? I will sea to ask mr. whalen that question. In the meantime, is todd perine here wishing to speak? Okay. Those are all the speakers that we have. wheelen there is a question for you. We're going to consider item -- the reason to consider them separately is 35 is approval of the license agreement, 36 is a resolution wave regular quirements.

>> So, mayor, I'll move approval of item 35 with the amendments that were outlined by mr. whalen. motion by council member martinez. Second by council member morrison.

>> I handed the clerk the version I circulated. council member morrison. I would like the director come up, not that i have a lack of confidence what you said is true but it would be great to can be.

>> Director of packs and recreation. We've been going back and forth and working with cassi and we're fine with the way he announced that and the different part about the parking, I think that was the one we kind of ended up on so this should be able to move forward.

>> I appreciate that. I know staff and council member martinez's office and my staff, I want to thank them and all of you for really sticking with this and working it out.

>> Thank you. We have a good partner here and we want to continue our relationship. I wanted to make a comment about 36 but I guess i can just wait. we're going to -- separate motion. The

license payment of 2,000 a month, isn't that kind of cheap? Isn't that -- you know what's the market on that? Do you think that's a reasonable --

>> well, considering it's not a rent payment, it is actually a payment based on what dollars it is, and that is up from the amount they were giving us previously, we considered to be a fair amount of a this time.

>> Mayor leffingwell: okay. All those in favor, please say aye.

[Chorus of ayes] opposed, say no. Passes on a vote of 7-0. Council member martinez moves to approve item number 36. Seconded by council member riley.

>> I have some questions about item 36, and in particular, about the process that was under taken did we go through an rfp process in regard to this contract?

>> No, we did not.

>> And why is that?

>> Well, when I was here previously with cassi and debating the issue related to the agreement, at the end of the discussion it was asked by council we expeditiously go back and look at a public purpose to try to help facilitate this and offer services that would meet the needs of the community at a whole, so I worked with cassie and our staff did to try to come up with something senior as a good public purpose, and the idea of a concession since on the east side of i-35, there are no opportunities. We thought this would be a nice amenity to have not only because it serves the guest of the hostel bus, also, it is within distance of the boardwalk so that's what we brought forward as an additional community benefit.

>> I completely understand the value of having a concession over there and I strongly support that and applaud you for that, but I still don't understand why we couldn't have done that through an rfp. That's how we -- do we typically USE RFPs FOR CONCESSIONS?

>> We typically dock and I'm not negating that at all because that is a good process to use in this particular situation to work expeditiously and come up with a public purpose. We worked this route, the additional time it would have taken to initiate a bid process would have been an additional 8 to 12 months.

>> And starting as of -- starting when?

>> Probably, we wouldn't have probably gotten it off the ground until some time this month, probably, and to get through and get bids and work with purchasing --

>> what when did the council have the discussion you're references?

>> October? I believe october.

>> With regard to the continued presence at the site.

>> When we had our discussions, it was in april with our preliminary discussions.

>> In april, that's time when we talked about the value of having concessions there at that site, so if this was motivated by the council discussion, if we had actually acted on the discussion at that time and gone through an eight-month process starting in april that would have gotten us, landed somewhere, some time around december by my count to actually wind up with, you know, getting something in place there through a standard rfp process.

>> It would have been a little longer than that, and the other part of that would have been, i guess we could have done that, no doubt. I don't want to dismiss that, but I believe the direction that I had was to work a little more quickly and look for something that would have appeased a public purpose. Again, I'm not negating the fact that a public process is something that's desirable, but I think working with our friends at the hostel, we were trying to do two things. One is work through the agreement, and then would we go out for the bid process? Would it be the hostel that would go out? The agreement we had was between hostel and not with epic. All I had the opportunity to do was review and approve the different components of it, so i would have had to take complete control of that and run the complete bidding process through purchasing and their schedule, and so when we say april it probably would have been closer to june or july that we would have been able to work through the purchasing department, so we would still be in the process right now.

>> As you know there used to be, that the site, an incident involving a very serious safety risk to people using whatever it was, the boats or kayaks they rented there, actually went over the dam. Is that right?

>> That's the first I've heard of that.

>> Is there any other park staff that could speak to that, or maybe --

>> that's correct.

>> It was very -- I'm sorry you haven't heard of that because the other providers on the lake were concerned about that. Already safety questions associated with this on that site so you really need a rider who is experienced and knowledgeable about issues like that. So, what can you tell us about the history of this particular provider that we're about to enter, award the concession too.

>> What I can tell you that if you' prove this opportunity today, what this affords is the opportunity for the hostel to enter into an agreement and we would get the opportunity to approve the bandwidths in it that would have everything to do with the safety parts of it, requirements. Of course, the percentage in the parks and recreation department, permitting that has to take place. So, even though this is allowing this to happen, there is still more work and that is permitting because of the dock, the sides of the dock and program plan, safety and being able to ensure it is a safe environment and people are given a safety pre -- before they get on a paddle board, before they get on a kayak and make sure they have the requirement for insurance,

a requirement for any entity that enters into a business on the lake or any part of the city. This doesn't negate those things being placed into your agreement to ensure there is a safety glass there that protects the city as most importantly, those individuals who would be residents of the city or guests using the lake.

>> Approval of this item does mean awarding the concession to a particular provider.

>> Yes, it does.

>> So I'm asking about the particular provider. What you do ask of that particular provider in providing services like this.

>> This is a groups that had a had some success providing services but not necessarily, a permanent concession or even a temporary on the lake. They have -- their design is quality. Their work ethic and what they provided us through the hostel has been quality, they're willing to do what it takes to make sure they're meeting all the city requirements and, again, that's what I know.

>> This has not provided services on the lake before.

>> Not directly for us, no.

>> Can you tell us about the parks board.

>> The parks and recreation board did have a little discussion in regards to this item. While, when it was preliminary, presented to them, they were supportive and asked to come back with more about the agreement. The last meeting they had a very deep discussion about the fact that they felt like to should go through a public process and proceeded to not recommend it.

>> I believe that was a unanimous vote.

>> Yes.

>> They unanimously voted against approval of this item.

>> That's correct.

>> That's all I need, thanks.

>> Are you finished?

>> Yes.

>> Council member morrison.

>> I did, -- sara, thank you for your comments and I appreciate the concern whether or not we went through an rfp process from. My point of view, when we approved this last april, what i heard the council say was to cassi, to go find a partner, so maybe we didn't understand it generally, concessions on the LAKE WERE DONE THROUGH RFPs AT That point, or what, but at this point, to go back and say, well, really we're shifting the path we want to go on and two it through an rfp process, I feel would be very unfortunate so i think it is important to do this waiver and let these folks get on with it and I'm sure there are protections in the agreement we just approved that allow us to ensure responsible oversight on the part of the youth hostel. We already moved approval.

>> It's on the table. Just to follow-up on that, are there safeguards for liability for the city?

>> There are safeguards and liable, and absolutely, we'll go back and make sure that, from our comments from a input regarding the actual concession agreement between epic and the hostel there are safeguards even added into that area, but there are safeguards that would protect the city and protect the citizens, but I can't stand here buffer today and just say that every angle and every situation is going to be covered because things happen, and I would be misleading you in being very dishonest. I'm not a lawyer but --

>> okay, I got you. Council member martinez. I appreciate the comments and concerns, too. We have an rfp process for a reason and we use it when it is required and when it is best, but we also don't use it when we believe it is best in certain situations, and more specifically, we have an agenda item coming up late they're takes dedicated parkland parking spaces and contemplates exclusive agreements with private commercial entities if we see it meets the benefit. There is nothing in there about an rfp for parking spaces. It doesn't make sedges. It is not getting to the community values and other issues and concerns we were trying to address. Same case for the hostel. It possess as community benefit to austin that we care about enough to where we wanted to allow them to negotiate some concessions that also enhance the community benefits at the site wasn't authorize them to do that on their own, knowing they would be the operators of the facility. I appreciate the concern about the process and whether or not we do an rfp. Frankly, I make decisions up here based on what's best for that specific item that's before us, just as I will be supporting the item later on I believe is appropriate and the parking spaces next to it we own on parkland, but we're not going to do an rfp process. So I will be supporting this item and that one.

>> Council member riley. I'm very glad we will get the services at the hostel. I was the one who spoke to that sort of need for this service. It makes a lot of sense for having it there and it will be a great as sets for visitors to the hospital and austin residents who want to go down and enjoy that area. I'm also aware there are a number of very qualified and experienced service providers who have been in existence in austin for a long time, providing stand-up paneling services and other similar services on our water front and they all had to go through the rfp prestos gets the concessions that they had. I know at least one of them would have been very eager to have the opportunity to provide the service at this location, but never was givens chance to do that, and now they feel like they're going to be undercut by competition across the lake through a process they never had a chance to participate in. On top of that, they raise safety concerns with providing this service, especially in that location, and one of the benefits of an rfp process is it

allows to you consider a provider's experience and qualifications in providing services to make sure that we are getting a provider who is doing the best possible job as addressing concerns like safety. So while I applaud the hostel for its work on getting a partner for this concession, I'm not able to more this particular item, under the circumstances, under which it reaches us. But, I will be glad to see a service being provided there. further discussion? All those in favor, please say aye.

[Chorus of ayes]

>> opposed say no.

>> No.

>> Passed on a vote of 5-2 with council member riley and myself voting no. So, we go to item 38. 38 Was pulled by council member tovo. We have two speakers. You do want to hear from them first?

>>Tovo: yes. Clay dovo. Ronnie reeferseed. Neither are in the chambers, so council member tovo. I had some questions about this item. It is described as a one-time expenditure but it looks like salary. I was able to reshovel with the staff and put it back on but verify this is, indeed, a one-time expense. The city will not take on a commitment to pay a salary of one of the waller creek conservancy staff.

>> It is my understanding this is a one-time request. Any future requests would come back to the council and require your approval if those did occur.

>> This is to kind of get that position up and running and the process moving forward in a timely way. And the money for this is coming from coming from the block 21 proceeds which I understand could only be expected on waller creek.

>> A portion of those proceeds were dedicated to waller creek.

>> What are some expenditures you're making out of that block 21 funding.

>> At this point, I'm not aware of any that are under way at this point, but I see van ino who might be able to speak for that.

>> Three projects in the previous council, dedicated to 2 million to waller creek, 2 million to the week and the trail.

>> The block 21 funding doesn't need to be spend on waller creek, it has flexibility in terms of how to could be spent.

>> Per the previous council action, occurred in december of 2007 that is how council directed staff to spend those funds and that is how staff is administering the expenditure of those funds.

>> Was the expenditure before 2007?

>> 2007 Resolution said that that's how council wanted the block 21 proceeds to be expended. And the moneys that have been allocated have not yet been expended, but we have a previous council action saying they want 2 million and the block 21 proceeds to be spent on activities related to the development of walnut creek.

>> I'm sorry, I think I now understand. 2 Of the block 21 will be expended. That I thought what I was hearing from the earlier discussion was block 21 funding could only be spent on waller creek but it is only 1.2. My last question is are there any planned uses for that waller creek money that might have to be delayed or eliminated because of the proposal we've got before us today.

>> No, council member.

>> Okay. Thanks. Then, with that, I move approval. motion by council member tovo for approval.

>> Second. is there a second? Mayor pro tem. Council member morrison.

>> If you don't mind, council member tovo's question just brought up another question for me. You said this isn't for an on going position, or it is not an on going financial commitment but is this going to be, I guess it sounds like they're going to be hiring somebody with this and I presume they're not going to fire them after a year.

>> That's my understanding. And, the position would certainly require that sox this was going to be a position that will be involved in the project for a number of years. It is essentially the city's counter part to a project manager that's a conservancy is contracting with.

>> So work it be unreasonable to expect there will be a request in front of us next year for the 175,000.

>> I'm not aware at this point. That may be a subsequent action that they request, but I'm not aware of that at this point.

>> Do you know if there are any plans for financing, financial situations at the waller creek to have on going salary commitments? Just inside -- trying to get a realistic assessment.

>> I can only speak anecdotally. It is my understanding this is a position they would want to retain, you know, throughout the construction period or the design and construction period of the project, which, as you know, could be a number of years so they would want to have, i would assume, retain someone who is -- you know who stays with the project throughout that period. The individual that they're contracting with is susan, who is highly qualified, has worked with the city on a number of other public/private partnerships, so we think she is a very good selection for the position.

>> I'm sure that she is. I guess I'm just -- we've had some questions about long-term financial planning for waller creek, and I guess I would be curious about how this fits into that. Because, at this point, we're not -- there are sort of the, certainly, some support that the city is looking at in terms of the conner is advance effort -- conserves and every for thes, but on going staffing sounds like a new idea I haven't heard yet. I will support this but I think we need to make this part of our follow-on conversations that we've been having about the long-term financing.

>> There are discussions going on with regard to that. I can't say they're real far along, especially our understanding of the conservancy plans.

>> I'm talking about discussions I've been in about what options for for a really long-term view of making this successful, financially. So we can include this there. Thanks. the question raised, I believe by council member tovo, I believe is important consideration to clarify that this, like any other city position, be subject to annual budget approval.

>> That's correct. all those in favor, please say aye

[chorus of ayes] opposed say no. Passes on a vote of 7-0. Item number 69 has no speakers. I pulled this item off the consent agenda because I've been advised that there is a very significant fiscal note attached though this item. I don't see anyone here, from i believe from the staff to comment on this. I believe the major part of the expense is from public safety. Coming up.

>> Burt, assistant city manager over community services. We have the chief here to speak on the public safety piece and sara is the parks director who can talk about specifically the park ranger piece. But, as the heart of this issue, certainly staff sees the merits of this consideration. Our issue is this council needs to be aware of what we consider fiscal aspects to this that need to be taken into consideration, and, as I said, the individuals here can speak to that. And, you know, the other part of this is that this is an ordinance that is really implementing a pilot project. Staff has not had the ability to really look at all of the actual pieces associated with it in terms of the potential impact on the trail, and even the stakeholder piece of it, which we really like to and incorporate in any conversations that we make, even on the pilot phase of it, and so we just simply want council to be aware that those are issues that we certainly want to bring to the table and make you aware of it but if you specifically have questions on the public safety and police side, I can have the chief address that specifically.

>> I certainly support the objective of this, and that's to increase public safety, pedestrian, for pedestrians and bicycle riders. And, anything we can do to advance that objective certainly should be considered, but I just wonder if there is some other way that we can address this without the expense, and I would like for you -- a police department representative to come up and talk about that expense.

>> Okay. Good afternoon, mayor and council members. Assistant chief with the region one. As far as the parts go, right now with the way it exists, the parks close at 10:00 p.m. We have a specialized patrol charged with patrolling the parks, however, they do go off duty. Due to the curfew, we don't have any dedicated coverage overnight on the parks and trails. By opening up these trails, we would have to address that and have some dedicated police presence on the trails

to deter any potential for crime, anybody being robbed or god forbid being sexually sauled or anything like that along those lines. Because of the hours of the night we're looking at here, typically our standard footprint during those nights, we end up on patrol, we go down to one shift, city wide. So, as far as trying to divert some resources over to that from the patrol shift is just not feasible. Say, for example, you have one particular shift that has authorized strength of 10 that we have for, say, the downtown area, then when you take into account someone being sick or vacation or training, those numbers can drop down to seven or eight, trying to shift personnel over to basically a new project or a new -- basically trying to cover an entire shift for the trails, and that would be problematic. In tornado cover a particular shift of seven days a week, it actually takes two shifts to cover it because we have a 40-hour workweek, so we will be looking into what the trails and number of miles we're looking at, and also the fact that the trails are very poorly lit at night, is that we're looking at least having 10 officers on each shift that way the officers are paired up together. Remember' white now, initially looking at three pairs of officers patrolling along lady bird lake, butler creek, and another two trails with a pair of officers dedicated to patrolling those two. Along with that comes the supervision pieces of it. AS FAR AS FTEs, LOOKING AT 3 Million per year, however it would take time to recruit, hire and get the officers trained to be able to pull senior officers down and replace them with new fers so that's one piece. Being a year around this is looking at overtime, having to fill it with overtime. And the number there we're 1 million in overtime to cover those particular shifts that we're looking at.

>> Thank you. I would just say, in light of that, I don't believe I could support the motion. I could support a motion to postpone it and look for other ways to address the public safety issue that don't cause us to incur that kind of expense, perhaps.

>> Council member riley.

>> Mayor, I'm happy to postpone the item. In fact, we've talked about postponing by one week. We got the memo from staff this morning, so I'm happy to take a closer look and see what we can do to mitigate any expense. I will say there are, obvious safety issues associated with riding on our streets and we have a number of people who, for some time, have been making judgments about the safety of the trails verses the safety of the streets, and they've been choosing the trails in many instances. This would simply make it practice legal. I would note that we recently, this year, we've had three cyclists killed at night, all of whom were for riding legally and safely on our city streets, and so for many it seems odd that we would prohibit them from riding on a very calm, placid trail, along the river. And insist they get up into conditions like river side drive and other streets they're putting their life on the line just to move around, so I just want to be cognizant of that, we are talking about risks associated with transportation of whatever form and on balance that this may be at the lower end of the spectrum. The risk associated with being on the tray may not be as dangerous as being on the trail. I'm happy to take a look at this, looking at that you know, for the one-year pilot, looking at something short of the three trails that were suggested in this resolution. One thing we've talked about is perhaps focusing on the butler trail around the lake and the portion of the shoal creek trail, we would avoid the need to have patrols at night on the johnson creek trail and we would like to explore opportunities to work with other partners who could help out with the patrols, with the patrolling these areas. And I would also note this is a discussion, a timely discussion to be really is right now because with the

completion of the boardwalk in 2014, we are going to have to make some decisions about the use of that. Currently, since that has been viewed as a transportation project, I think that the expectations of many has been that would be a 24-hour facility. That that transportation and infrastructure would be a 24-hour facility which we would have to deal with, the people using the boardwalk and trails and especially the trail around the lake. And so we will need to be thinking carefully about what we do about that. I would also note that in same vein, that the butler trail around the lake, shoal creek trail and johnson creek trail have all been the resip went of federal transportation funding. Many do use them for transportation van a reasonable expectation that transportation infrastructure would be available at night just as roads are. So I think this is a conversation we need to have, a that other cities are having. We've been in conversation with denver, which in may of this year lifted its curfew for purposes of people using the trails or urban trails at night. The perfect people passing through park areas on those trails for transportation. Cities around the country are going to be thinking harder about how we provide opportunities for alternative transportation and so I think this is an important conversation to have. I'm glad to make a little bit more time to figure out how we can meet the goal of allowing night time use of these trails without an undue expense on the taxpayer.

>> So, motion is to postpone until january 17.

>> I that you would we were talking about one week? i personally would prefer a longer period of time because I don't think one week, we're going to be able to work anything out. January 17. Is there second to that notion.

>> I would prefer a week, too mayor, but if you insist on a month, gill with a second. second by council member spelman. Thank you. Additional comments. very briefly do we know how many miles of trail were involved in the district?

>> About 20 miles. and approximately how many people would you be proposing to staff on that new shift?

>> A shift of 10 officers and five teams of two, three teams for the lady bird portion and one team for each of the other two trails, plus the supervision piece on that.

>> So three teams of two on lady bird lake, one on shoal creek and one on johnson creek. and I should know this, the long one here is the hike and bike trail around lady bird lake.

>> Yes. shoal creek is probably the same lake?

>> The section we're looking at is a little over five miles. Same thing with butler. that leaves 10 miles for johnson creek that doesn't seem right.

>> I'm not familiar with johnson creek, that is one of the new ones. That is something we will sit down and look at but that was the rough mileage we got. it sounds like something we will have month to look at. How long are the exact areas we're opening up. How many officers on each of these areas. They're proposing to do walking or biking patrols or cars?

>> It all depends. My vision is to actually have them on bikes to be on the trails themselves.

>>Spelman: okay. That seems reasonable. And, this is actually a question for council member riley. Since denver has already done something similar to this it would make sense to see how denver dealt with public safety issues and whether they relied on the police who do not staff trails, whether they actually put somebody on the trails on a bike or on foot all night long, or they felt no need to do that. Of course, what happens to public safety when they did that, both in terms of vehicular accidents avoided or not and in terms of crimes committed. I presume denver has already done a pilot project, proposing to do what we were going to do and already have data on that.

>> It is in their -- if I may, mayor. It is in their city code and we've had one phone conversation with staff there based on that conversation it appears we haven't experienced any problems with either expense or safety issues. With a little more time, we can certainly look into that a little deeper. very briefly, a last observation, if I cork mayor. Right now, we have people using all three of these trails all night long. I've used some of them myself. A friend of mine habitually run 00 in the morning and likes to do it while nobody else is on that trail and hasn't run into trouble but is probably running a high risk because she is the only person on that trail at 3:00 in the morning. If we opened it up and allowed more people to use it there will be more people on the trail, which will reduce her risk. The more eyes on the street, the more opportunities for informal surveillance people can do with one another, the safer we all are so there is at least a possibility that, by making -- not safe, there is possibility that by making legal what is currently illegal, we will make it safer, but, if we spent 7 million to put more police on it, we will make it safer still, before spending 71 million on a situation that is safer than it was before. There is a possibility, I don't want to try and back that up with anything other than the most academic of speculations but there is a possibility this is true. I look forward to hearing what actually happened when they did this in denver.

>> Mayor -- I certainly to check on it myself. Mayor pro tem. I want to clarify with council member riley it is not a situation where we want to open up the trails and allow people to come out and use them as council member spelman is talking about his friend who 00 in the morning, but that we already have this demand, and so we have an existing safety issue. Is that correct? Not that your friend isn't wonderful, but I just mean, i think it's important that the public recognizes, like you talked about earlier, the noncyclist that died and we have a demand where people are using the trails late at night and that extending the curfews is going to make it safer for people who are already there who have already made that decision, as opposed to a situation where we're trying to make it safer, light it up, put offices there and recruit people to come. That's not the case.

>> Well, maybe I'm wrong but thing is also the issue of liable. Once we legally open these trails up, we have a responsibility to provide that kind of protection where, as legally, again, we might not. That's supposed to be closed, you're not supposed to be there, so some incident that happened would not necessarily be the liability of the city. All in favor of 9 notion postpone until january 17, say aye

[chorus of ayes] opposed, say no. Passes on a vote of 7-0. Item number 70 now has two speakers. This is a resolution appointing a new city clerk and establishing compensation and benefits. Clay dufoe is not here. Ronnie reeferseed. Is not here. So, we have an ordinance, yellow sheet in front of us establishing appointment of jeanette goodall as city clerk effective january 27, 2013, that will be upon the retirement of an excellent city clerk. Average salary 113,448, et cetera, et cetera. So, we will entertain a motion for approval of that. Mayor pro tem moves approval. Second by council member martinez. All those in favor, please say aye

[chorus of ayes] , passes on a vote of 7-0. Congratulations, you are a new city clerk in about a month and a half.

[Applause] so, we have a number of speakers on item 72, I believe is. 73 Has one speaker. We will hear from the speaker.

>> Good afternoon, council. Speaking on item number 73, which is -- I think we're on 73, right?

>>Mayor leffingwell: correct.

>> Approving an ordinance initiating amendments to city codes to establish a private practice for parking requirements for commercial business utilizing trip reduction strategies and waving the requirement of city code section 25-1-502. Um, where are these trip reduction salaries? Are we going to post meters on business' vehicles to enforce this? I'm confused. And, I just want to know if we are doing that and what are these trip reduction strategies. Can anyone answer that? No. Okay. Well, I would say I'm against it and I think the citizens of austin are against it, too, because they do not know what these trip reduction strategies are. Just waving the requirement, reduced parking requirements for commercial businesses, we have a lot of people that drive and don't take the bus because your bus service is poor. Parking requirements, I would say let's leave them as is, because until we if I can our public transportation problem, we might as well just leave it as is because it's not going to help. All it is going to do is cause more headache and decrease the revenue the city of austin eats, so let's keep the parking requirements in place until we fix other methods of transportation. And this should not include rail in any cost, shape or form, unless a private enterprise wants to build it with their own taxpayer money. Thank you.

>> Mayor. council member riley. If I can just respond to the question that was raised. Ordinance associated with this item sets out a number of examples of the type of trip reduction strategies we have in mind. They would include but not be limited to things like location near transit or bicycle routes, advertisement, encouragement of public transit options to that location, price discounts for patrons showing they arrived without a car. Employee vision of car share to employees. Employee parking demand management programs like parking cash-outs and provision of valet or delivery services. All strategies geared towards reducing the parking needs for a particular location. Cities all over the country are making advantageses in the travel demand management. We actually have a new transportation management autos here in austin working on this sort of thing and this gives us an opportunity to work cooperatively with employers interested in those sorts of strategies to reduce the city-imposed parking requirements in accordance with the programs employers are willing to put in place to ensure there will be less of a parking need at their site, so this is consistent with the efforts going on both here and around the country to

encourage alternative forms of travel. And so that's just a brief response to the questions he raised. Those are all the speakers that we have. Entertain a motion.

>> Move approval.

>> Council member Riley moves approval.

>> Second. Second by Mayor Pro Tem. Discussion in Council member Morrison. We had discussion about what the process was going to be and my concern was it was going to the planning commission but we weren't going to the normal process so what I would like to do is just make sure that when the planning commission is briefed, as is foreseen in the resolution already that staff, when they come to council they can prepare a report or provide the comments to us from the planning commission so we can take advantage of the pearls of wisdom that they will provide for us so I wanted to add in part five specific language, after the first sentence that says the city manager is directed to present the proposal to council after presents to planning commission, the ordinance should summarize any comments provided by the commissioners in response to the briefing. So I would like to offer that as a friendly amendment, hopefully, and I think that will satisfy the balance of trying to do this expeditiously but also make sure we're able to take advantage of the planning input. Accepted by the maker? Yes. Accepted by the second? Yes. I hope to have a friendly amendment, as with the logical way to do this is to know in advance what it is we're trying to accomplish and how we're going to measure if we've actually accomplished it in advance of undertaking the pilot project. The proposal required must include a description of the key objectives and performance measures to be used in the value weight of the success -- valuation measure of the success of the program. Then we will know if we actually achieved our objectives. Accepted by both the maker and second. Part of the motion. Further discussion? All those in favor, please say aye.

[Chorus of ayes] opposed, say no. Passes on a vote of 7-0. So, if we can skip over, we have a planned postponement on items 115-120, postponed until January 15. All those in favor, please say aye

[Chorus of ayes] opposed, say no. Passes on vote of 6-0 with Council member Spelman off the dais. Correction, 7-0. Vote is 7-0. Go to item 74. Several speakers signed up. 74 was also pulled by, I believe, Council member Morrison. We go to the speakers. Dave King. You're up.

>> Good afternoon and thank you for the opportunity to speak on this proposed resolution -- proposed resolution for this advisory group to make changes to the land development code. Chapters 2-1-1 through 2-1-188. That is a lot of stuff in there, and the resolution wants to exempt the group from the entire, it says 2-1, all of that code in there. So, as we read through that code, the resolution I'm not sure what is specifically exempted or what is not, which components the group is exempted from or not exempted from. For example will it be exempt from open meetings laws, conflict of interest and recusal, public financial statements, attendance requirements, meeting requirements, rules of order, annual internal review and report. And review report. Given extent to question the land development code affects every citizen and every business in this city, this group must represent a fair balance of all stakeholders. It must also comply with open meetings laws and be transparent in all deliberations and decisions. Public review and input must be

allowed on decisions and recommendations made by this group. If you don't do that, and the fact that this except exemption is in the resolution, makes people wonder. Why do you want to exempt them from these? Things in there because they benefited the city in the past. Now you're saying this group is not going to be bound to those. I would just like in your discussion to address that and help me and maybe others understand why you want to exempt this group from those good things in chapter 2-1. Thank you very much for your time.

>> Defoe? Ronnie reefersed? will McLeod?

>> I agree with the previous speaker. There's a lot of unanswered questions regarding "imagine austin"'s comprehensive plan advisory group. What is the advisory group exempted from? That is very important. We want to make sure they are adhering to the open meetings act, and other important laws and regulations as city council. Now, advisory group, where are they going to be from? What parts of austin? Are they going to be from northwest austin? North austin? Where there is a tremendous lack of sidewalks and mobility problems? Or, are they going to be located mainly from downtown austin alliance. I'm confused. We, as citizens, don't have enough information about what you're planning to do with this advisory group. I mean, until we get more information, I highly recommend this be pulled, this postponed for a month until we get enough information regarding what this advisory group is, where are they part of austin, come from, what their credentials are and what their experience is. Because you wouldn't hire an unlicensed electrician to repair your home, would you. I know I wouldn't. That's kind of like this. We need to know what this advisory group is going to consist of, the who, the what, the when, the wear, the why, and I think it is appropriate to postpone this until your january 17 meeting. Thank you. those are all the speakers that we have. Council member morrison. Laws laura morrison thank you. The steering committee that is being created with this resolution one we talked about significantly both at the planning commission, maybe some other board, the comp incentive plan on -- comprehensive plan on transportation committee that mayor pro tem and council member riley and myself are on, and then we have the presentation and discussion here and it is definitely going to need to be a group that represents fraud interests and different areas of town. And, certainly, when we appoint those folks, each of the council members would be recommending one. We will strive to make sure it represents the broad interest. We did have a discussion at work session and raised the issue about wanting to ensure that -- wanting to ensure that this group did -- was subject to the open meetings act, and also ensuring that we define what it means to fail to serve we can make sure if people can't show up and don't have the time for this, we will be able to replace those folks. That will also help us with quorum and all. So, what I would like to do is make a motion that we approve this resolution with the following amendments, and that is to do both those things i just mentioned on page two of the resolution, amend section 3, and I do have some -- I have this written out for folks. Amend -- on page two of the resolution, amend section 3. I'm reading the second part here, to specify the advisory board must comply with the open meetings act so it is adding specific language to that effect that I will provide to the clerk that our legal department prepared for me. And, then, the second change to the resolution in my motion is that, at page two of the resolution, we amend section three to specify that a member of the advisory board fails to serve so that we know when they're no longer going to be a member and we have to reappoint them if he or she misses three consecutive meetings or one-third of the meetings in a 12-month period, the same standard that boards and commission members follow.

This is a lot of important work that these folks are going to be doing, so that's my motion to approve the resolution with the amendments on this page.

>> Motion by council member morrison. Is there a second? Second by council member spelman.

>> Mayor, I have some questions. mayor pro tem. I have questions for mr. brent lloyd. He is here? I certainly appreciate council member morrison's comments and agree that we have been at this a long time and the importance of the steering committee and importance of transparency. In work session we were trying to hammer out some language so i would assume the language we have in front of us you have prepared?

>> Yes.

>> Way please clarify the language we preparously had in about city boards and the task members not being subject to that?

>> Yes. Our language is consistent with the baseline that is established under city code. Under city code, the advisory group fits in the definition of a task force, meaning it is an impermanent body that will expire and it is not a codified body. Under the standards in the code that means they're not subject to the requirements of chapter 2-1, all the procedural requirements spelled out in chapter 2-1.

>> Specifically focusing on the open meetings act, are you saying normally advisory boards are not subject to the open meetings act?

>> No, they're not subject to the procedural requirements much chapter 2-1, but chapter 2-1 specifies all bodies, even just task forces are subject to open meetings. So, what that means is that when the board, when the task force, when the advisory group, excuse me, chooses to holdings, those meetings must posted to the public just like a normal meeting, so I think the language as proposed in the initial draft and then as clarified by the amendment is consistent with how the code provides for advisory groups to be established and it is consistent with the clarifications that emerged from the discussion at tuesday's work session.

>> Okay. , So we just made it clearer in the revisions that you worked on, the amendments that you worked on, that the body is subject to the open meetings act. But we would not have made those amendments then under the existing dead would have been.

>> That's absolutely correct coal dole okay, thank you. council member morrison. I hate to belabor this but I see in the section that it shall not comply with the open meetings act and we're waving that. Does it say it somewhere else. I know we've taken care of it here and maybe we can talk about this off line but I don't understand how, without this clarification, I'm hearing you say they would be subject to open meeting.

>> They would. This would qualify as a task force even though it is not being called that or not subject to chapter 2-1. Later in the provision you just read, it clarify as task force is subject to open meeting. The resolution that was posted before you in back up, as introduced, never

included a waiver of open meetings. So I think there was some confusion at the work session in response to the questions as to whether or not kind of what the baseline was for task forces in our code, but the rule is that whether or not you're an impermanent body subject to the 2-1 requirements or not, you're always subject to open meetings.

>> Where is that rule stated? Just for clarity.

>> It is in the provision but i believe you just read it us to.

>> But that's 2-1-3, so we were about to wave it, unless we clarified. So that's in 2-1. So forecast we wave 2-1, then that provision no longer applies, so that --

>> I don't think we're waving 2-1, I think the resolution correctly says that the task force is not subject to chapter 2-1 that means they're not subject to the different requirements, our administrative housekeeping requirements. For example, not to have a regular meeting. Under this ordinance, the advisory group will be able to meet when it sees fit, so there is certain procedural requirements in 2-1 that don't apply, but 2-1 says, even if you're not subject to everything else, you've got to comply with open meetings and that's above and beyond what state law requires.

>> I'm finally getting it. Thank you very much for sticking with it. So there's a different between waving 2-1 which we're not doing and being subject to the requirements of 2-1, which we are doing. You're not subject to the requirement. That brings up some questions for me. Did I see what may or may not be applying. So, for instance, 2-1 defines a quorum and what it takes to have action and 2-1-6. So, will that apply to this advisory group?

>> No, it would not. I think the advisory group would are to establish its own requirements, and generally speak, I don't think they would be required, to but most groups default to robert's rules. Assuming they chose to do that, roberts rules would make the quorum for this body six.

>> Okay.

>> I can't speak to whether there are other ethics requirements in title two and I'm not sure to what extent those would apply. I could research that. I think the other point that's relevant to your question is any appointment under this ordinance would have to be approved by council.

>> Morrison: Actually, i don't believe so. I thought that staff is approving -- is making four of the appointments.

>> Staff will identify four individuals that it would like to serve, but it's ultimately under council approval.

>> Morrison: No, actually -- help me with this then, brent. Because under two, be it resolved the advisory group shall consist of 11 members, seven members shall be appointed by the city council and the remaining four shall be named thereafter by the city manager.

>> Bear with me a moment. There was an earlier draft that included language requiring council approval. My apologies, you're correct.

>> Morrison: So I guess that's of concern to me. Then I found a couple of things that felt relevant in 2.1. One is that it required folks to receive a copy and agree to comply with the city's ethics and personal responsibility guidelines and also training, in particular open meetings training. We know open meetings can be complicated, the law, and to subject them to -- they will be subject to open meetings if we approve it as is. It seems that training, just like training for our boards and commissioners, would certainly be in order. And I assume with the -- not subject to the requirements line, they would no longer be -- they would not be subject to training and they wouldn't be subject to our ethics policies. And guidelines.

>> They would not be subject to all those requirements, but the -- the city attorney's office in the past when council has chosen to create sort of more informal bodies, we've very freely provided pointers to bodies on how to comply with open meetings and I think that's certainly called for. Even if it's not an explicit requirement vis-a-vis 1, we're certainly happy to.

>> Morrison: Is there some sort of broad umbrella statement in terms of working with the city that we could say means that they're agreeing to comply with the city's ethics and personal responsibility guidelines? Because owe sewell they're going to be, but the idea that we're saying explicitly you are not subject to our ethics guidelines really troubles me and just because it's the wrong statement to be making. I wonder is there some sort of overarching framework that we work with at the city where people that are appointed here would be subject to our -- would be agreeing to comply with our ethics guidelines?

>> Council could certainly add that as an amendment.

>> Morrison: Okay. So I guess I have a second so I'll make -- I'm going to make two motions -- I'm going to make a motion that we also add -- brent, if you could help me with where. Something to the effect that members of this advisory board must agree to comply with the city's ethics and personal responsibility guidelines. I'm not sure who seconded that.

>> Mayor Leffingwell: Is that a friendly amendment?

>> Morrison: For myself, yes.

>> Spelman: The second agrees.

>> Morrison: Then I would also like to add the one issue about the lobbyist. I'd like to add a prohibition against members who are registered or required to register as a lobbyist under chapter 4-8 or who is employed by a person registered or required to register under that chapter.

>> Spelman: I think we'll have to vote on that one, mayor.

>> Mayor Leffingwell: It not accepted.

>> Morrison: I would like to go ahead and call a vote for that.

>> Mayor Leffingwell: You want to make a motion for that as an amendment?

>> Morrison: Yes, please.

>> Mayor Leffingwell: Motion by councilmember morrison. Is there a second?

>> Tovo: I'd like to second it.

>> Mayor Leffingwell: Seconded by councilmember tovo.

>> Tovo: I think it's entirely appropriate to make sure that the individuals who are coming before this council are not serving in that capacity if they are being paid, in a paid capacity as lobbyists. And I'm glad you added the language, or required to register, because now and then I do find individuals who ought to be registered with our city clerk and are not, but do come before the council and are being hired to present -- to present cases or otherwise advocate on behalf of their clients. And again, I think our boards and commissions, especially with regard to something as complex and complicated and bound to be controversial as our land development code rewrite, I think we want to be sure that we do not have members of that committee who are -- potentially have a vested financial interest in the outcome.

>> Cole: Mayor, I have a question. Do you know what the requirements of lobbyists are?

>> I'm sorry, I -- I'm not -- I have some familiarity, but I'm not comfortable addressing that without reviewing further. And I'm not sure -- no.

>> Cole: Okay. Because I can certainly understand people that have a conflict of interest, which is kind of the whole point of being a paid lobbyist and actually sitting on this committee. And then the flip side of that is also understandable that a lot of times those are the people with the actual expertise that actually practices in the field, and we're going to cut them out of being able to help with these endeavors simply because they know a lot and they know a lot because they've been acting. So I just wanted to know if -- what the requirements are and how much a population we really were excluding, but we really don't know that right now. Thank you.

>> Councilmember martinez.

>> Martinez: I think the amendment doesn't preclude anyone from being a part of the process. For me I assure you that folks that have a vested interest, they will be a part of this, but I think it's a fair amendment and anecdotally, if you go back to the front overlay when we sifted revisiting that and determining how we came up with height levels and density within the waterfront overlay one of the things that kept being repeated over and over is if you had a lobbyist that was in on it and down there, you tend to come out with a higher density in terms of the overall waterfront overlay and that's why it created disparities throughout the different zones if you will of the waterfront overlay. So it didn't preclude lobbyists from being involved and I'm sure if a client has a vested interest they will pay their agent to represent them fairly and provide

that expertise, but for serving and making that final recommendation, i think it's a fair request because it's something we apply to everything else that we do. I don't see this as any different. In fact, I see it as kind of a higher bar that is our land development code. So I'll be supporting it.

>> Cole: Mayor, I have another question since i didn't get that one answered. Isn't it the case that our other boards and commissions do not allow lobbyists to serve?

>> The provision that councilmember morrison read a few minutes ago that was -21-c, that applies to all city boards and commissions that are codified permanent boards. It's the taskforces and the advisory groups that are formed for a single purpose that are set to expire that are not subject to that provision, which would restrict the service of lobbyists. What I cannot address, and if council wants us to look into these issues, I think we can answer them very quickly. But what I can address at the moment is whether there are other provisions of our ethics rules in other parts of the code that would apply automatically in this situation anyway regardless of what's in 2.1.

>> Mayor Leffingwell: City clerk, do you have something to add to that?

>> I wanted to let mayor pro tem cole know that currently we have 57 registered lobbyists in the city of austin. information.

>> Cole: Thank you. I appreciate and i appreciate councilmember martinez's statement about lobbyists and people with expertise aren't precluded from participating in this process. But they still can lend that and they will, especially if they do have an interest. And now that you've made clear that our other boards and commissions, as a general rule, do not have lobbyists, I will be supporting the amendment.

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: This is my day for being unpopular. If we wanted to restrict firm attendance on this committee, anyone with a vested financial interest, then we would be restricting anybody who owns a house or lives in a neighborhood and will fight as tenaciously as possible for the financial well-being of their own home and their neighborhood. I think it's a lot of why people participate in this stuff is because they want their neighborhood to look good and feel good and for their house to be valuable. And I think lobbyists made it clear what their interests are then perhaps people who live in single-family houses, but i think it's exactly the same kind of interest going on in both cases. I don't feel so strongly about this that -- I'm not going to go to matt for the 57 lobbyists in the city to attend on this thing. I'm really against the amendment because I think it's a good idea for this to be widely available, particularly since we're trying to pick 11 people who have expertise in the fields of urban planning and a whole bunch of other things and I know we have lobbyists who have sometimes the most expertise in the city on sometimes those issues. If we're trying to get expertise on those issues, we need the people who know the most about it and not arbitrarily exclude people who perhaps have been paid in the past to argue in favor of those issues, but it's not a big deal to me. I have another comment, but I'll hold for that until we've actually voted on this. It's that time of day, isn't it?

>> Mayor Leffingwell: Yeah. I think those are comments well taken, councilmember spelman. This is is, after all, only an advisory group and i think we do have provisions in place with respect to conflict of interest, and if there's a lobbyist that have an obvious conflict of interest they would have to recruise themselves like anybody else would on a certain issue. So I think we're building a battle ship here when we need a row boat. Anyway, I'm going to support the amendment. All in favor say aye? Opposed say no? This -- this was a vote in favor of the amendment to --

>> [inaudible - no mic].

>> Mayor Leffingwell: You're amendment, I'm sorry. Okay. That fails on a vote of three-four.

>> Cole: No, it passes.

>> Mayor Leffingwell: All right. The amendment is by councilmember morrison for that amendment. All in favor say aye. Opposed say no. So that passes on a vote of four-three with councilmember riley, myself and councilmember spelman voting no. All right. Kind of went to sleep on that one after the first 30 minutes.

[Laughter] and so we have the main motion that is on the table. All in favor of the motion say aye. Opposed say no. It passes on a vote of seven to zero.

>> Spelman: Mayor?

>> Mayor Leffingwell: Councilmember spelman.

>> Mayor Leffingwell: I'm not asking for a change in vote of any kind, but while lloyd is close by i would like to ask a question of him. I realize that we don't do this too often, but we do occasionally set up advisory groups, taskforces and so on, which are -- do not need to be subject to the same restrictions as permanent boards and commissions do. Rather than ask the council to go through another one of these discussions in the future where we're arguing about the difference between waiving and -- waiving a code provision and not being subject to the requirements of a code provision, I'm not sure I still catch the subtle distinction and the words there. Perhaps what we could do is to separate these requirements into two pieces. One which would be -- which we would want all of our permanent and temporary boards, taskforces and whatever to be subject to such as the open meetings act, such as the ethics and personal responsibility guidelines and another one for only the boards and commissions. It's obviously a long-term project, but it seems to me that some of the one through 88 would be put into one category, some of it could be put in a different category and then we wouldn't have to argue about what is and is not applicable to a particular group in the future.

>> We'll be mindful about the next time there's a proposal to create an advisory body. I would point out that this -- the resolution was modeled after one that was done for the airport advisory board that also included similar language that just stated that they weren't subject to chapter 2-1, but I think the potential for confusion is definitely there and we'll certainly consider your comments the next time a body like this is established.

>> Spelman: And maybe we could head the whole thing off if we did a little bit of background work in advance and made a few small revisions in the code. Thank you, sir.

>> Thank you.

>> Mayor Leffingwell: And I assume that there's going to be a certified lobbyist-free list of nominees furnished to us. I don't think we have that requirement for any other nominations. I'm not sure that we do, but I don't think we do.

>> Morrison: Mayor, if i may, all of our standard boards and commissions they can't be registered lobbyists or required to.

>> Mayor Leffingwell: Taskforce and working groups.

>> All of the registered lobbyists are online.

>> Mayor Leffingwell: Okay. So it's a responsibility as of the nominee, I guess, to check them out to make sure they're not a lobbyist? All right. Let's go to item 71. And 71 was pulled due to speakers, so we'll run through those. John schwartzchild. You have three minutes.

>> Hello, thank you. This is a real honor for me and a privilege. I respect what y'all are doing here trying to help the community. I'm really proud because my son here, he's nine years old, he's here with me. I'm representing a bunch of people, and there's a petition that was submitted and there are 2700 names on it. There were 200 something people, maybe 250 that showed up. And so I'm representing them and it's an honor to represent them. About this resolution, it's not like a blank check. There's going to be an application process that businesses who would have to go through and then they would be turned down or not turned down. It could be revoked at any time. So if there's any kind of problems the city is in total control. And another thing about me representing people is I'm representing a business. And one thing I was thinking about earlier today was sometimes the president is speaking and he points up to the first lady and right next to the first lady there's usually a military person there. And so there's a person in the spotlight to put a face on the problem. And the person that is in this case is casa deluz is who I'm representing and it's a community of people who are trying to do something really good in our community and they're doing it with diet, they're doing it with fellowship, and so everything about casa de luz is about good. So this is something that hopefully speaks towards what this will help. And it's business oriented, several businesses have been spawned out of casa de luz. Academy of oriental medicine was formed there and it's now moved up north. It's one of two acupuncture schools in town. The natural especially cure curian for the culinary arts started there and was since bought biogood yoga and is flourishing there. Healing in yoga was bought by castle hill fitness and became their yoga department. Let's see. Nadamu ice cream is one that's made out of coconut milk and sold at whole foods and several natural markets that started there. So casa de luz is an incubator for business, for new ideas, for people, for health, and that's kind of what I wanted to say today. I really appreciate your time and thank you, everybody.

>> Mayor Leffingwell: Roger chan. Is james carabekek here? Michelle worrel?

>> [Inaudible - no mic].

>> Mayor Leffingwell: What is your name? Are you signed up? Okay. You have up to nine minutes.

>> Thank you. Won't need the full. I'm here to commend the council for this proposition because I think it's very consistent with where this city has been moving since I've been here in 2000 in terms of being more consistent with new urbanism, the way of using parks, I like that, the of traffic and cars, I like that. It's all consistent. In the interest of saving you all time with repeated messages, we decided to pool it. So we just want to collectively draw our support to the fine work that councilmember riley has done on this. And should there be any questions at the end we're here to give you support.

>> Mayor Leffingwell: You only used 45 seconds.

>> That's all we needed. Shorter is better.

>> Mayor Leffingwell: Kathy kaysin. Is she here? Steve doday. Paul saldana.

>> Good afternoon, mayor and council, paul saldana. I'll be brief. I understand that language will be added to exempt the ms financials map from i think what could have been a potential unintended consequence. While the macc is located within the rainy street central business district area which technically would not apply to what the councilmember was proposing, there are potential establishments within a thousand feet of that area where there could potentially end up parking at the macc. As you all know back in october we had a long drawn out discussion about what to do with that big vacant piece of land. Parking continues to be a challenge. Several of us were at the macc board meeting last night where they clarified for us. I'm not opposed to as long as language is added to except the ms

(indiscernible) macc. Thank you.

>> Mayor Leffingwell: Councilmember martinez.

>> Martinez: I do plan on asking the maker and the seconder if it's friendly so we'll see what the council does at that time, but I do plan on adding that language.

>> Great. Thank you very much.

>> Mayor Leffingwell: Sloan simpson. Juan (indiscernible)?

>> Afternoon, mayor and council. I'm chair of the mexican-american cultural center and board. I want to thank councilmember riley and leah for doing a presentation last night and I want to reiterate with paul, and i want to echo that I can really support this -- this resolution if we could exempt the macc. Thank you.

>> Mayor Leffingwell: Thank you. Jim isaacs. David king.

>> Thank you again for this opportunity to speak to you about this resolution. And I too share the sentiments of some of the previous speakers about supporting our local businesses, particularly those like casa de luz. I think it's really important and I commend to you trying to help those small local businesses that provide these unique services and help them continue to be successful and promote that environment in this city. I do have some concerns, though, about the resolution and ordinance as it's written. So I think if we can maybe incorporate some changes I think it could help make this thing better at least from my perspective. There are two key aspects of the resolution, as you know. One is that there's a serious shortage of parking. We know that. No doubt about that. But the other is that there's underutilized parkland parking that exists in the city. So I did some checking. I looked at the parks and recreation department, 2011 to 2016 long range plan that was updated last year and approved by the council. Nowhere in there did it utilize any parkland or parkland parking. In fact it was the opposite. There's a need for more of that, particularly in the inner city areas of Austin where you're promoting increased density of retail and residential. Again, which I can understand that that's important to urban sprawl. But I think we need to tweak this a little better so that it really does what you want it to do. If you're promoting the use of bicycles and less use of automobiles, then if you want to take what you call an unutilized parking space and convert it from public use to private use essentially, then why not convert it to a bicycle parking only? If you really want to promote bicycle use? So I think that just kind of strike me as an opportunity there to make it even better. And the the -- the other question I have is how was this analysis done to come up with underutilized parking and parkland? Knowhow does this analysis? It wasn't in the parks and recreation department long range plan. So who came up with the analysis? Were neighborhoods involved in that process? And what is the definition of underutilized parkland and parkland parking? I think those are important questions that will help people understand, you know, what's the scope of this and how is this going to impact parks and parkland parking. As you know, the city has continued to grow so we will need more parkland and parkland parking and bicycle parking. The council, I think if you don't provide enough maintenance and operation for the parks department, then the parks will deteriorate and the utilization will go down, that's natural. So I think it's important to -- let's move up from \$20 per capita to 91, which is the national standard, again, for public parkland. We're whoafully underfunding our parks. If we want to get more utilization, let's address it that way. And if I might --

>> Mayor Leffingwell: Time has expired. Thank you. Clay dafoe.

>> Thank you, Austin city council. I would first like to bring on the very good questions he's asking. I hope all of you guys are thinking about what he's saying actually up there. 71 Is a motion to -- a resolution to -- approve a resolution initiating amendments to title 25 of the city code and direct the city manager, Marc Ott, to develop an ordinance that allows businesses under certain conditions to utilize underutilized parking lots on city parkland to satisfy minimum parking requirements in exchange for providing significant amenities or enhancements to serve the park. I would like to see your definition of enhancements, ladies and gentlemen. And you know, there's a lot of people that refer to themselves, I'm a libertarian, I'm a libertarian, I believe in the free market. Folks, this resolution is not about small business. It's not about helping small business. It's not about promoting a natural or free market at all. What this is about is more special deals. And I'm a big fan of casa de luz. They're a great local business here in Austin. We need to support them with our dollars. Vote with your dollars is what I'm all about. We saw this

happen with royal blue grocery. They now have taken over public parking spaces which every one of you as citizens of austin actually own. Now they're using it for profit. This is more corporatism at work and this is where government and corporations get together that it messes up the natural market and it actually hurts the economy. So I want to make it clear for the record, item 71 on december 6, 2012 agenda is not about small business, it's about more special deals. And I want to spend this last minute sharing with you guys something that happened to me in pease park, well-known park I want to talk about, back in may 2011. I went to a meetinit was supposed to be a community input meeting where they hear from us the citizens of the community about what we want pease park to be. Instead, it was we're going to tell you what it's going to be. And what it's going to be is we need amenities. People don't know about pease park. We need gates, we need big signs. Not enough people know. And that's what this is about, special deals for special corporations to establish amenities in the public land I pay taxes on. Now, pease park is the oldest public park in the state of texas, going back to 1875 when former governor elijah m pease deeded the land to austin. And if you look at that warranty deed it says that it shall forever be public parkland for the people of austin. And you will violate that deed if you end up establishing special deals under certain conditions for certain businesses. So it's just more corporatism, more special deal. This is not libertarian, this is not natural or free market. This is about the money. And partnering with public partnerships and creating pipelines for employment and all sort of corrupt deals that you guys will do down the line. It looks innocuous, 71, and I don't blame the people for supporting it that support it, but I think it's the wrong path for the city of austin. Thank you.

>> Mayor Leffingwell: Ronnie reeferseed. It is.

>> Hello. I'm ronnie reeferseed. Here to tell you to pay attention to clay dafoe. I mean, this is a real important fact. He's going on the original plan, what was in the original makeup of this is it's a gift to the city, not a slimy special deal making an example of corporatism in modern days, like is working out here like clay so articulately pointed out. In other words, the businesses, they have their need and we understand parking is a problem. And I'm in favor of the businesses that we're speaking, and they have a right to be that way. But this is public land. It's owned by the public. And I don't know, it might be news to everybody else, but we really need money here to spend on legitimate projects, not these flimsy -- these fly by night kind of cash deals, corporatism. It's not capitalism, it's corporatism. And in response to one of the previous speakers, the city is in total control? When did that happen? I mean, have any of y'all heard of the zillion dollars that are blown on comprehensive annual financial report? I mean, there's an unbelievable amount of money these criminals waste everyday. And for one of my previous figures to say, you're in total control, it's delusional. And so I'm speaking against taxpayer funding, surrendering of more taxpayer dollars. We don't have those to waste or give away to any business who might want a better parking deal. And like clay was saying, it's nothing more than a slimy, special deal with corporatism as the overriding theme of it all. And we should respect our businesses enough to give them the acknowledgment that they have the wisdom and they have the financial wherewithal hopefully to take care of themselves. They don't need a special deal. They don't need yet another corporatism, laden, slimy special deal from you guys. And that's really what -- and again, I want to remind everybody that the comprehensive annual financial report, look into it. You would be -- your mind will never be the same. You will never feel the same about this bunch of cripples up here and we'll have to hope that more people are paying attention and like

clay said, it sounds inknock us and I respect those people who are speaking in favor of it but I don't agree. I think we need to hold on to the taxpayer dollars and make sure that these taxpayer funded, already owned by the taxpayer gifts are just not given away.

[Buzzer sounds] thank you much.

>> Mayor Leffingwell: Those are all the speakers that we have signed up. So I'll entertain a motion on item 71.

>> Martinez: Move approval.

>> Mayor Leffingwell: Was that -- councilmember riley moves approval. Seconded by mayor pro tem cole. Discussion. Councilmember riley.

>> Riley: First I do -- now that we have that on the table I do want to talk about an amendment that we discussed at the macc board last night. There was concern about the possibility that this mechanism, that the mechanism established by this resolution, as a result of this resolution, could eventually wind up having some application to the macc. We've had some continued discussions on that today and I want to make clear i fully support, including an exemption like that, just to out lay any concerns. I've never heard any suggestion that this should or even could be applied to the macc, but just to allay any concerns, I fully support, including language to make clear that there is no intention to -- that it would be applicable to the macc. But I think there is one aspect of that issue that has come up that we really ought to address. And that is the nature of the land that the macc sits on. And I would like to ask directly hensley a question about that if I could. This -- what this -- this resolution would set in motion a code amendment process aimed towards an ordinance that would allow the use of underutilized parking on city parkland. So one question that has come up is how that might apply to the macc. And we've been talking with staff about exactly -- about the land that the macc sits on. hensley, could you speak to that? Does the macc sit on city parkland?

>> Susan hensley, director of parks and recreation. I understood it was the parcel next to it. I talked to lorraine riser, the real estate director, and that piece of property is not parkland. The land that the macc sits on was not parkland because it was previously a city-owned site for I think transportation. Fleet services. And so that one I need to check on, but the one i understood lorraine was not going to be here and she wanted me to address was the piece of property that's on rainey street which is not public parkland.

>> Riley: I haven't heard anything about that parcel having anything to do with this conversation.

>> She couldn't be here and she asked me. I'll need to check, but i don't believe it is. I just want to double-check because it was not public parkland when we acquired it and put the mexican-american cultural center on it. It was city owned property. It was not acquired as public parkland.

>> Riley: Just for clarity, the information we got from real estate services today was that that land is still not considered actual city parkland. It is held by the parks department, but it is not considered parkland. So even as currently drafted, the ordinance that would result from this

process would have absolutely no application under any circumstances to the macc property, but just to further allay any concerns, I'm happy to accept any amendment that might be offered that would provide an exemption clarifying, belt and suspenders, that there is no -- that this would never apply to the macc property.

>> Mayor Leffingwell: Belt, suspenders, martinez?

>> Martinez: Thank you, mayor. I think there's a couple of things being discussed and they might be getting intermingled. So the two tracts of land that are not parkland are on rainy street that we're talking about and having community meetings about, how do we incorporate that into the overall future master plan of the macc? The second part is we do have parking on the macc and that is on dedicated parkland and there's a concern that that parking could somehow be intermingled into this proposed ordinance. And so all I will offer is a friendly amendment which would be under part 2 of the be it resolved and add a section e that says nothing in this ordinance shall apply to the mexican-american cultural center and its master plan.

>> Mayor Leffingwell: Accepted by the maker, mayor pro tem? Accepted also? So that's incorporated.

>> Riley: Mayor, if i could -- if I could just speak to a couple other concerns that have come up. I want to emphasize that the code amendment that's contemplated by this resolution is -- would not entail any kind of giveaway of any sort. What we are talking about is making use of underutilized parking spaces in order to secure additional improvements on our -- within our city's parks. We all know that our parks are underfunded. The park that is across the treat street from casa de luz has languished for many years without getting the attention it deserves. You have ball fields surrounded by parkland that is just in fairly shoddy condition, I'm sorry to say. There are no sidewalks, there are not really trail in good condition. There are connections down to the trail that goes around lady bird lake, the roy and anne butler trail around lady bird lake, but those connections are not in any condition that would be considered acceptable as a park facility. And what casa de luz has proposed is that they would be willing to commit to installing and maintaining very significant improvements to those lands that would include thing like landscaping, new trees, an orchard of trees, a new garden area where we could educate folks about food, even food that could be prepared across the street, making use of classroom space there, casa de luz. We would -- they suggested that we have -- that we install picnic tables around the ball field so that families coming to use the ball fields would have a place to sit and enjoy a picnic before or after baseball games, softball game. There are a number of other improvements that would really result in a vastly improved park for all the users down there. And in exchange, casa de luz would get access to some of the parking spaces that currently sit empty for much of the time. These are not the spaces that sit empty all of the time, and that's one thing that I need to make clear. These are not unutilized spaces. When there is a big game down there those spaces will fill up and certainly those -- the users that are coming to those games, the park users coming to those games, need to have priority. We need to -- the parks department needs to craft an agreement with this business that would ensure that people coming to those games would also have access to those spaces. And if the business -- if casa de luz is open during those times they may need to secure other parking during those times. But then there are other times when -- most of the time there's no game going on across the street and all you have a bunch of empty surface

parking spaces and those really don't do anybody any good at all. They just sit there empty and don't really contribute anything to the vitality of the park. So we can't really tear those spaces out. I had an email from someone suggesting that if we've got extra space questions should tear them up and replace them with a playscape. We can't do that because we need the parking spaces there at times when there are ball games going on. But then that's only part of the time. And the rest of the time the spaces are not being used, they are underutilized. Casa de luz would like to use them and in exchange they're willing to provide substantial improvements to the park. I've gone on about casa de luz and the park there across the street right there on toomey road just because that is frankly the situation that prompted this particular concept, but this mechanism would be available to any park where you have underutilized parking spaces and a business that would like to make use of those spaces in exchange for providing additional -- providing improvements at the park. We've been working at this for some time and I really want to applaud the folks at casa de luz for working cooperatively with us and offering very constructive suggestions to resolve a long-standing and very difficult problem. And I know it's been a difficult situation for all concerned and so I really want to express appreciation to the folks at casa de luz as well as city staff for their patience as we work through this. And this -- passage of this resolution is not going to solve the problem in its self. There's still additional work to do. This will entail crafting an ordinance that will then have to be approved and then an agreement would have to be approved and any agreement would need to go through a full public process under chapter 26 of the local government code, state law, to -- because it does represent a non-park use of city parkland and state law provides a public process for considering proposals like that. So we would go through that process to approve any agreement that would result from the ordinance that results from -- that comes out of this resolution. I do want to mention just a couple of other changes that we have come up with to address other concerns. And I hope these would be considered friendly to the second. I would suggest that we add a new section thoring the city manager to allow a fee in lieu to providing the proposed amenity and the evaluation process include an assessment of the value of the amenity relative to the value of the parking spaces. That's so we know exactly what amounts -- what values we're talking about here and making sure that we're not -- we're not doing any unjust giveaways of city assets. That there is a reasonable exchange of -- that represents a fair value to the city and the taxpayers. And without posing an undue burden on the business. And those were changes that were requested as a result of citizen input. So if those --

>> Mayor Leffingwell: Is that accepted -- mayor pro tem, do you accept both of those?

>> Cole: Yes.

>> Riley: Okay. All that again, I move approval.

>> Mayor Leffingwell: Councilmember tovo.

>> Tovo: I have quite a few questions. I'm going to start, I guess, with one about the first amendment. I didn't understand your fee in lieu amendment.

>> Riley: The idea is that as we draft this ordinance that we consider providing an opportunity for a business to actually pay a fee if lieu of actually providing the amenity. For instance, you

could -- there might be -- if we identify some improvement and attach a dollar value to that, then the business could pay that fee. Fees in lieu of parking are done frequently in other jurisdictions and we haven't actually done it here, but it is something that the staff could look into in the course of crafting this ordinance.

>> Tovo: Thanks. So I guess my question for staff -- my first question, I'm not sure whom to direct this, but I guess my question is how would that differ from, say, a license agreement where the prospective -- the prospective party would enter into an agreement with the city to use -- to in essence use public space like we do with our sidewalks when you have somebody who wants to put a sign up on the sidewalk or otherwise utilize public space?

>> Brent Lloyd, assistant city attorney. And the language, the amendmentary language as I understand it would require staff to determine if fee in lieu is feasible and if so to include it in the ordinance. So I think acknowledged in that is the fact that there would be some issues that we would have to look into in determining whether it's a fee in lieu would work in this sort of situation. But in response to your question, this is definitely not a license agreement. I think the concerns that were intended to be addressed are that there may be instances where the adjoining business that seeks to take advantage of this process would not want to directly provide the amenity, design it, install it and directly be the one to do it, but would rather pay a fee in lieu that would allow the city to exercise more direct control over the installation and design of whatever amenity is to be a part of the agreement.

>> Tovo: So if you have a business located near parkland that has an underutilized parking lot, and I've got a lot of questions for our park staff about the extent to which that's true in any of our parks, including the one that we're talking about here, but would they have an opportunity of entering into a license agreement with the city, would they now have the opportunity to enter into a license agreement with the city to in essence rent some parking spaces? Is that something that the city ever does? Either with parkland -- either with parking lots associated with parkland or parking lots associated with our other city-owned parking lots?

>> Councilmember tovo, that sort of arrangement would require a chapter 26 approval from the city council. And I know that there have been arrangements entered into in the past that involve novel uses of parkland through the chapter 26 process, but I cannot speak directly to your question as to whether anything like this has been done before. But if it had, it would have to go through the chapter 26 process. And so it would have been approved by council.

>> Tovo: Okay. From what I'm understanding from our discussion today, were this resolution to pass, there would be a chapter 26 process required at the end of the line before those parking spots could actually be used by a private business.

>> Absolutely. And the agreement, the proposed agreement, if it's recommended by staff, and staff thinks there's a beneficial arrangement to be had in a particular case, that would be presented to council as part of the chapter 26 process. The resolution includes provisions where staff would have to evaluate a proposal and determine that it makes sense from the parks department standpoint before it would be presented to council. But if there was an agreement that staff deemed to be worthwhile that would be presented to council through a chapter 26 process.

>> Tovo: So back to the other part of my question, if we've got a city-owned parking garage or city-owned parking lot where we feel we have extra spaces, are there any situations now where we in essence rent those spots to individuals or to private businesses, and if so, are those handled as kind of rental transactions are are those done as license agreements.

>> I'm sorry, councilmember tovo. That's a very good question and I'm not the one to answer it. I don't know if there are staff here that can speak to that that have historical knowledge.

>> Tovo: The reason I'm asking, and I'll tell you that if we figure out if there's staff who can answer that question, I like casa de luz. I think the community that surrounds casa de luz is very interesting. I like what you're doing there. I don't get down there nearly as often as I would like to, but it's -- the solution we've got -- i would like to see a solution -- I would like to see casa de luz pursue a solution to their parking issues. And it seems to me two very -- at least one very -- there's at least one other option and that would be to enter into an agreement with one of your neighbors who has parking available as we ask lots of other private businesses to do, if they don't have sufficient parking on site to get some sort of off site parking agreement. And it's my understanding that there are some other businesses along barton springs who have entered into similar contractual relationships. I see some people in the room who will remind me there are complications involved in those off site arrangements. They're certainly not always ideal and they're not as in some cases not as reliable as having on-site parking and can present issues for people around them. But in any case I think that's an option that presents itself with regard to this particular situation. Instead we see before us an option that while creative, raises a lot of questions about implications across the city and a whole lot of questions for our parks department that I hope to get to here soon. So I guess I'm wondering to what extent there are other options here. I just mentioned one. The city wouldn't be a party to that. But would another option be just to have some sort of straight transactional -- do we ever enter into these kinds of relationships with other side of the break city parking facilities where we just say if you want -- we've declared that we have extra spaces. We would be willing to enter into some kind of agreement to rent those spaces at a very clear financial-- very clear dollar amount. Or are those typically handled through license agreement. I understand it is different because it is parkland.

>> I can answer real quickly on one thing about yes, other lots. Sarah hensley, director of parks and recreation. We have a reciprocal agreement with covenant presbyterian church in northwest austin and it's reciprocal. We can use their parking lot when it's not being heavily used for the northridge recreation center and they can use our lot as overflow when their church is in session or other activities and we're not busy. The other one is with austin independent school district where we have facilities on -- that are partially on parkland and partially on school property and we do a sharing of our parking lots. And then we of course have a good example of that is the turner roberts recreation center where the school is a part of the recreation center in the center part of the school and we share the parking lots. But as far as city garages and city parking lots, I do not know.

>> Tovo: But there is a precedent it sounds like for entering into shared agreements in lieu of sort of a sweeping change that would make all underutilized parking lots associated with parkland available for private use.

>> Yes. You could do just a single issue related and not sweeping overall, arching agreement for the city based on if there was space available and it allowed it through other -- if you're talking specifically about casa de luz. If there was available spaces at the time that they needed it, I'm sure there would be a way to work through that. I'd have to confer with the law department, but -

>> Tovo: Some of the things that I guess I'm curious about with regard to I guess the particular example we're talking about, sounds like it's underutilized at certain hours and very utilized at others. So can you address, I guess, that particular concern? How would that be managed? And then to what extent would park users be inconvenienced if they come down for a ballgame and those spots are taken by casa de luz's customers? That seems to me, especially if we're trying to encourage people to use that park, i mean, one of the reasons why that may not be as appealing a park as others is because people aren't using it. I mean, maintenance -- i completely acknowledge we need more dollars for maintaining our parks.

>> No agreement there.

>> We could exacerbate the problem of park usage by having it be inaccessible to people who have driven there.

>> Correct. First and foremost, we did not do an underutilized parking study of our parking lots, and we'd have to spend some time doing that. Currently, honestly, I'm being really frank, we don't have resources to go around and look at all of our lots and see if they're utilized at different times. Many of our lots are used at different hours of the day. If it's a recreation center 00 in the morning we're open up early 00 at night it could be very busy. Like the parking lot at the austin recreation center because we have a situation there with the austin community there is no place for people to park that are coming to the recreation center for exercise programs. We tread on that very lightly and have to work closely with our partners at austin community college. In this particular sentence this is a park that we have an agreement already in place with the zachary scott theater, the south austin little league and then a fast pitch team as well as austin independent school district where we use the fields there. And they haven't been using it because of the tunnel project, but they will be coming back to work with us. So we would have to really very carefully look at what times would be available. As far as enforcement or how we would know, that is something also a concern of mine because I don't have -- again, we would have to look at if someone was parking there, when it was open for I would have to have a mechanism to be able to monitor that lot so that it was available for the little league or for the fast pitch team. And then of course, we have an agreement with the zachary scott theater for overflow parking and for bus parking. Again, we would have to look at those kinds of things to make sure that there was not a conflict of interest and i would not want to designate parking for one group when I've already committed to others and then cause more of a problem. So there are some concerns there. Again, we would have to try to look at that. And those are things that are of concern.

>> So we heard a good question from one of the speakers, and I share this question. I'm not sure how we're going to identify -- how we're going to define underutilized. And I appreciate your response. I had asked some questions through the q and a process and I know they probably aren't posted in any public way, but I had asked for some information about how you would

calculate the value of the parking spaces, whether there would be based on current parking rates or rental values. Whether you would accept cash payment for parking spaces, which might be more useful to you than having an outside group actually work on the p. In some cases that may not be part of the vision that the parks department has for that land. Anyway, I wanted to say i appreciated the candid responses back which expressed some concern about how the parks department would come to an understanding of what lots are underutilized. So I wonder, one I'm not clear what the definition of underutilized is, but can you talk to me about how the park staff will determine which parking lots throughout our city associated with parkland are underutilized and do you have a sense, and this may not be a fair question, of whether this parking lot would even come to the top of the list as underutilized and be available for any kind of outside use?

>> Well, that's a good question. I think that's our concern is it's not that we -- first and foremost let me say this. Anything we can do to improve our parks by partnering -- I think you know me well enough to know that I'm certainly an advocate of partnerships and looking at outside opportunities. For me I want to make sure it's a commitment that we've made previous to me coming to the city and even currently and reupping and working with the new agreement for the zachary scott theater. It would take some serious research, but also work with other city entities. I would like to work with the city transportation department and I'll be honest with you, I would like to work with the parks and recreation board and if we're going to look at this, you have some areas and parking lots that may be underutilized, but the value of the parking spaces are a lot higher than some others that we have parkland. That means it's based on where it is and the areas associated with it. For instance, auditorium shores and the few parking spaces we have there are going to have a high level of importance as far as how many spaces are there and what the reciprocal costs would be if somebody were to pay in lieu of or to provide services versus maybe a parking lot in some other area town that isn't as heavily used and to figure those things out we would have to spend some time really looking through that. What is the value of that lot? Maybe it can be across the board, but I have some concerns that it's going to be different in other places of the city and we would have to spend some staff time working with the law department as well as our partners in the transportation department to figure out particularly parking, what are the costs associated with those and what would it be in the different areas?

>> Tovo: You had talked about costs and the response to my question, you had talked about the department does not currently have the dedicated resources at this time. And that was to talk about -- to look at amenities, but I think i remember reading in here that there would be a cost just to determining which parking lots throughout the city are underutilized and whether it's a appropriate to enter into these kinds of agreements.

>> Well, and that's true. I do not have a dedicated staff or staff -- I would have to pull them from something else I guess is what I would say to look at this and do this the way that I understand at least as it's written now across the city for all the parking lots. And I'd want to do that to be fair so that I was able to show here are the underutilized lots, here are the ones that could accept those kinds of partnerships. These are always used and heavily used and overused. And to do that I don't think we could do that alone. So one, I don't have the current resources, I'd have to pull them. Two, I'd want to be working with the parking services out of the transportation department to help us because I'd want to make sure that we're not out of sync with what they would recommend. And then three, just to make sure that what we might be recommending as a site

that we may recommend as underutilized that we make sure we've been inclusive. That maybe there are meetings going on that we didn't know about that the neighborhood and the community is using as a parking lot for a neighborhood meeting. It may be a place where people are gathering at the park site for other events that are using it and we're not aware of it. It could be informal. So I'd want to be real careful and cautious about this.

>> Mayor Leffingwell: Councilmember, before you go on, I'd like to get some idea because we need to wrap this up in five minutes. If we don't finish it, we're going to have to table it.

>> Morrison: Mayor, I have some questions also. Maybe we should just table it.

>> Mayor Leffingwell: Why don't we just table it right now. We'll take it up after live music and proclamations, approximately 7:00 p.m.

>> Martinez: All right. Good evening, everyone. I'm councilmember martinez and it is that time again, every thursday our live music and proclamations. And today we have joining us is woode wood. I've got a little thing here I can read about woode. I don't have to really read about woode. If you've ever been down the hike and bike trail you know who he is. He sits at luna point -- woode's point. We'll officially rename that later. But he sits there greeting everyone playing music and just sharing that awesome love and joy that we all know everyday from many other citizens. But woody has certainly become the cornerstone of luna point and he's there ever single day. During the summer he doesn't sit out there in the heat of the day. He goes early morning or late evenings when it cools off. Woody was born in virginia. He discovered his calling at age 36 when a neighbor in key west shoved a guitar in his hands and taught him five chords within an hour. Later woody was inspired to move to austin after seeing ann richards on the johnnie carson show. Love to hear that story. Woody has played just about every music venue in town including stubs and continental club. He's also performed the national anthem at the university of texas basketball game. He's toured the united states and is embarking on a second tour to promote his new record, my city austin. This tour will hit all the states on the west coast and a few others as well. Please help me welcome woode wood.

>> Thank you. Thank you, mike. This is ryan young. We co-produced my new record which came out yesterday and collaborated on it as well. And his studio is called sweet tully studio. I want to say they ran me off one day. I can't remember, six months ago. And mike martinez, I came down here to see lee. I was really upset because a guy got promoted and he was like -- anyway, a long story. I came down here to talk to lee and I talked to his secretary and I got a phone call or email from mike and he straightened everything else. So I owe a lot to mike martinez. And this new record, this new record is called my city austin and this is the title song. My city austin. 🎵🎵🎵

>> thank you. And on the record, it's full band. So when you hear the record it will blow your mind, seriously.

[Applause]

>> Martinez: All right, woode. I want to present a proclamation to you from the mayor and council. You and ryan. And it reads, be it known whereas the city of austin is blessed with many creative musicians whose talent extend to virtual letter every music genre and our music scene thrives because austin audiences support good music supported by legends, our local favorites and newcomers alike and whereas we're pleased to support our local artists. Now therefore i, lee leffingwell, the mayor of the live music capitol of the world, do here by proclaim december 6, 2012 as woode wood day in austin, texas.

[Applause] woode, real quick, can you tell folks where we can find our album online.

>> My name is woode wood. You see how to spell it. Woode wood.com. That's not too hard. We'll start playing saxon pub with a full band and we'll start recording another record january, february. There's all kind of cool stuff coming out. Check out this record. I with 125 music videos on my website and the first single off the record is so simple and there's a new music video for it and guys, you will love it, it has a beautiful woman in it.

>> Martinez: Do you have a date for your next gig where folks can go watch you?

>> No, because we're rehearsing.

>> So tomorrow on luna point you will be there.

>> Actually, I got a girl coming over tomorrow, but saturday morning.

>> Martinez: Go see woode saturday.

[Applause]

>> Martinez: All right. Real quick, johanne, could you join me please. Now we switch over to proclamations and it's my honor to present the first proclamation to this amazing couple here joining me, rupert and johanne reyes. For those of you who don't know them, they are local legends when it comes to the arts scene in austin, in my opinion and in many other people's opinions. So I'm happy to present this proclamation today to joann and rupert on behalf of the teatro vivo to recognize their work for the last 12 years in the community and to celebrate the opening of their proclamation,

[speaking spanish]. A bilingual holiday comedy you've got to go see their stuff much it's so funny. At the long center for the performing arts. It runs december 6 through the 16th. So this bilingual comedy infuses latino culture, spanish language and latino holiday traditions in a show to be enjoyed by the whole austin family this project is funded in part by a grant with the texas commission on the starts and the city of austin through our cultural arts division, believing that an investment in the arts is an investment in austin's future. So I'm going to read a proclamation and I'm going to ask rupert or joann or both of you to say a few words and let folks know how we can get tickets and when we can see the shows. The proclamation reads, be it known as whereas teatro vivo gives the gift of laughter to austinites this holiday season with the bilingual holiday [speaking spanish] at the long center for performing arts and whereas written and

directed by rupert reyes and inspired by dickens a christmas carol this festive comedy infuturises spa lino culture, span lush language and holiday traditions in a show geared to the whole austin family. And whereas each performance has guest artist whose have a fun part in the play and whereas for 12 years the founders rupert and joann have produced culturally relevant latino theater that addresses critical social issues to austin audiences. The couple are well recognized leaders within the community and theater circle. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim december 6 through the 16th, 2012 as teatro vivo days in austin, texas. Congratulations.

[Applause]

>> all right. I am joann reyes and this is my husband rupert and yes, we would like to invite you to the long center for

[speaking spanish], baugh ham bug in the beario. 00 and then we have a matinee on sunday at two. You can get tickets at the long center website or going to our website, it is teatro vivo.org.

>> And as councilmember martinez said, we've been producing for 12 years. Theater that opens a window into the latino culture for everyone. We are very proud that our audiences are very, very mixed and they look like the face of austin. We make our theater accessible by using bilingual dialogue, using spanish and english simultaneously and telling stories that we believe are more universal to human beings than they are particularly to the latino culture. But it's through the vision of the latino culture that we are looking at the world. So we invite you to come see our shows. They are good, fun, entertaining and this one is for the whole family and it's a holiday show. So thank you.

>> Thank you very much. Lee leffingwell come on up. --

>> Mayor Leffingwell: Come on up. I don't know. I didn't know there would be this many of you.

>> We brought everybody.

>> Mayor Leffingwell: Okay. You don't know how to do that.

[Laughter]

>> picture first. Picture first, everyone. These are our communications and public information folks. Let's give them a big hand.

[Applause]. They've had a good year. The web team has received numerous awards for the new website, including the center for digital government's best of web award. Fifth place in the city category. Congratulations.

[Applause] also first place for best site for the city's communication, marketing association.

[Applause] we have a lot more to go here.

[Laughter] the channel 6 crew has brought home 39 total awards this year, including four lone star emmy nominations and the award for overall excellence in programming from the national association of telecommunications officers and advisors, and the media relations team received the award for the best media relations in the state of texas association of municipal information officers, and the community engagement marketing and graphics teams have been recognized for their work with the austin animal center and a first place promotional campaign award for imagine austin from the national association of government communicators and the community engagement for imagine austin has been benchmarked as a best national practice in the books slow democracy, rediscovering community, bringing decision making back home. And there's a civic engagement case study by the german marshall fund. I want to congratulate each one of them for their outstanding work and thanks for helping keep our community informed. And the next question is when are you going hd? Because I only watch hd?

[Laughter]

>> great question.

>> Mayor Leffingwell: All right. So I have a certificate of congratulations which I'll read. The city of austin communications and public information office is deserving of public acclaim and recognition. The dedicated members of this team have been recognized for their best managed communication services, including web designs, media relations, community engagement, video production, graphic design and marketing. The communications efforts serve to keep the public informed and austin's municipal government transparent. This certificate is presented with our appreciation for the team's fine efforts and congratulations on their many awards on this sixth day of december, 2012. By the city council of austin, texas, signed by myself, mayor lee leffingwell. Congratulations again.

[Applause] do we have a spokesperson? Three minute clock?

[Laughter]

>> I don't know. There's nothing I can say in three minutes. All I want to say, I'm doug matthews, the chief communications director for the city. And we've really worked hard, first of all, to bring the right people on to be able to do this work. But we've also from a leadership standpoint really tried to get out of their way and allow them the space to be able to do some really cool stuff. And if there's one thing that runs through this entire team, it's the belief and the importance of communicating with, engaging with and connecting with the community and establishing a relationship and doing a lot more than just pushing information out. And it's humbling for me just to be able to stand in front of this group truthfully. And I'm sure that I'm going to have a budget request for a bigger award case in the office coming up this next year. So really I just want to thank them. This is about them and certainly not about me.

[Applause] teatro.

>> Take our job very seriously. The program was set up as a part of our commitment, frankly, to make city hall more transparent and more inclusive. It's the fourth year actually established by city manager marc ott who is going to -- he and I are going to hand out the diplomas here in just a few minutes. More than 100 austin residents have graduated from this program, and i encourage all of you who might be watching channel 6 tonight or out there in the audience here, to look into taking advantage of this opportunity. I know it's a lot of work, takes time out of your day, but I don't think I've heard anyone complain that it was a waste of time. So everyone that I've talked to has been very enthusiastic about their participation in it. And if you decide you don't like it you just quit. You don't have to keep coming.

[Laughter] so a lot of people who have gone through this course have been inspired to go through -- to go a little bit deeper and are now serving a city boards and commissions, and who knows, they might run for city council or even mayor here in a couple years. So I want to encourage each of you after your accomplishments with our cityworks academy to stay involved and share what you've learned with your friends and neighbors. So before I call you up to get your graduation certificate, shruti mesa -- did I say that right? Say a few words on behalf of the class. Come on up.

>> Thank you, mayor. Respective mayor, leffingwell, acting manager ought, we are very grateful to the city of austin for providing us what we need to learn how our city works. Every week we met three different departments, all, about 36, for -- for 12 weeks. There's a tremendous energy, effort and time invested in preparing for these sessions. We had opportunities to meet epd and learn how epd operates, to -- a file letter, a chance to go through the water recycling plant, how is an emergency handled in our city and also some of the challenges that our city faces. And I know my classmates will agree with me when i say that we were a bunch of curious citizens. We asked many quest questions. It was amazing to see the impressive talent, commitment across the board in all of our departments. We want to say a big thank you to all the presenters who spent their time preparing for these sessions. I want to say thank you to patricia for your dedication and hard work. There's never a dull moment, right, folks?

[Applause] yes. In closing, I know I can speak for all my classmates that we now know a great deal more about this city than we did 12 weeks ago, and I know we'll continue to be involved citizens. Thank you, everyone.

[Applause]

>> now the fun part. Our first graduate, travis bias.

[Applause] bruce bogart.

[Applause] jake carter.

[Applause] sharon cherry.

[Applause] chevalier.

[Applause] andrew clemens.

[Applause] scott degal.

[Applause] katie salgost.

[Applause] catherine fillmore.

[Applause] natalie freeberg.

[Applause] betty garcia.

[Applause] lewis garcia.

[Applause] marcy hone.

[Applause] danielle leper.

[Applause] beyonlou. Triti meta.

[Applause] frank merriman.

[Applause] ybarra ortiz.

[Applause] brandon reed.

[Applause] veronica regalota.

[Applause] lindy rosoto.

[Applause] glen shield. Flush.

[Applause]

[applause] glen shield.

[Applause] hector sitorak.

[Applause] aaron renea tusan.

[Applause] leslie weston.

[Applause] carolyn wright.

[Applause] I don't think she's here. And our last graduate, random zumalt.

[Applause]

>> the graduates are meeting in the boards and commission room rice across the hall for cake and coffee.

>> Is anyone here from missing school matters week? Anyone? Oh. we're here to congratulate some folks who are doing important work with our school kids here in austin, which we all know is our most important natural resource. It's also the area where we need to put more emphasis in the future, not less, more funding in the future, not less, because it's so important, even though the city of austin, of course, does not have purview over the public school system, we're very affected by what they do. So if public education fails, we fail as a city. That's how important it is. So we want to do everything we can to help support our school systems and recognize the leadership of those systems. So the proclamation reads as be it known that whereas regular attendance is key to academic success and students who spend more time in the classroom are better prepared to meet the challenges and opportunities of an increasingly global economy, and whereas each year central texas students 4 million days of school falling under the state attendance average at every grade level, and whereas absenteeism is strongly linked with poor achievement and since schools are funded based on attendance, absences also take a financial toll. If average attendance can be raised by just three days, local districts can gain \$34 million in annual revenue to improve educational outcomes, and whereas the austin area research organization, commonly known as arrow and the e3 alliance encourage parents, educators, public officials and business and community leaders to help young people invest more fully in their education. Now, therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim december 3 through the 7th, 2012, as missing school matters week in austin, texas. So with that I'd like to bring up representative from arrow a e3. Suzanna caballero. Suzanna, welcome.

[Applause]

>> we thank you for this proclamation, and drawing attention to the fact that we are -- we have students in the central texas area 4 million school days in a year. That's a critical number that results in poor achievement in school. We want to be a community that is supportive of our school children's success and feel that we are responsible for that. We have a web site, missing school matters. We invite you to look at this web site. It has a toolkit that employers can use and family members can use to work with the students and with your school community to help them improve attendance. So missing school matters.org. Thank you.

[Applause] we are joined today by some representatives from tapestry singers women chorus so I'm pleased to present all of them. Thank you for coming. So tapestry singers is a women's chorus that's been around for 25 years, as i understand it. Congratulations on that. And it's a non-audition chorus, which means it's open to all folks to encourage their love of singing. So I think that's such a wonderful opportunity for folks to be able to engage in wonderful creative arts and cultural arts. So congratulations on that, and you now have, as i understand it, more than 80 members, and they -- they are recipients of one of the arts grants from the city of austin working to expand their outreach to the community, and they work with women of all ages and backgrounds and encourage folks that are interested to consider joining the choir. And this

sunday, december 9, at noon at the texas capitol rotunda, they are going to be participating in a multi-cultural holiday celebration at noon, and the community is invited to join this free event, and we're delighted to be able to recognize your achievements and having been around for 25 years, that's pretty amazing. Have you guys been in it for 20 years?

>> Oh, yes.

[Laughter]

>> so the proclamation says, be it known that whereas tapestry singers was founded in 1987 to create an enjoyable and accepting atmosphere where women from all backgrounds could come together to share a love of singing. And whereas 25 years later tapestry singers still provides women the opportunity to sing together in a relaxed setting of a non-auditioned chorus, and whereas the chorus enthusiastically shares the gift of song through concerts that blend the soulful sounds of spirituals and world music to the liveliness of folk and contemporary songs and the sanctity of classic compositions, and whereas we encourage the austin community to join tapestry singers as they joyfully celebrate their 25th anniversary through the universal and timeless connection of music. Now therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim december 9 through 15, 2012 as tapestry singers women's chorus week in austin, texas. Thank you.

[Applause] would you like to say a few words?

>> Thank you so very much on behalf of tapestry. We appreciate the city's support and we really want to encourage women who are interested to join us. We meet mondays weekly, and we -- you can find more information at our web site, tapestry.singers.org. We'd love to have the community come out and join us sunday at the capitol at noon. It's a free concert, multi-holiday celebration and we look forward to perhaps seeing you again next may before we conclude our 25th year and we'd love to do a little performance for you at that time maybe.

>> Terrific.

>> All right. Thank you.

>> Congratulations.

>> Let's get a photograph.

[Applause] and now I think we're going to be joined by some holiday elves. I'm not sure, that might be mrs. claus. Oh, a claus with the guitar. What an exciting day at city hall. Come on up. Hello. Welcome. Do we have everybody almost?

>> I believe we do. Come on up. Come on. You got the right hat for this crowd. So we're very delighted to be recognizing folks of the river city youth foundation and the 15th annual merry memories, which is just the most fabulous gathering of the community and children around the holidays every year, and so we're joined by some folks involved, and so I want to read this

proclamation. It says, be it known that whereas merry memories, one of our city's largest toy give-aways with 2,000 children receiving toys and gifts, is celebrating its 15th year, and whereas coordinated by river city youth foundation and benefiting the children of the dove springs area, the toy drive is a yearly success thanks to many community donors and volunteers, some of whom i think are here today, whereas, festivities at this year's merry memories celebration at dove springs rec center include santa's village, photos with santa claus, musical performances, and we extend best wishes for a wonderful holiday season to the sponsors, volunteers and beneficiaries of this year's merry memories. Now, therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim december 8, 2012 as merry memories day in austin, texas. Congratulations.

[Applause] claus, also known as mona gonzales.

>> Thank you, council member morrison, and thank you to all that have supported this wonderful project for 15 years. It couldn't happen without the loving support of companies like dell, represented here today by maria buyer, for dell adalantes, supporting this wonderful event and our key sponsors that are listed on the banner right here, including the austin fire department and austin police department, and just the parks and recreation department. The city has come through with so many resources that I just am so grateful. But also we have many individuals each year who give of their time, their challenge -- their talent and their love. One of them is here with me today and I'd like to introduce amanda lopez who serves as the chair of merry memories.

[Applause]

>> good evening, everyone. As mona said we've been working on this for 15 years. Our company has been involved for the last ten years, and with the support and contributions from our clients in the development community, even if they don't develop any -- they know this is an important part of austin. So we have ask that through the holidays and after that you remember southeast austin in the dove springs area. The reason we got involved with this ten years ago and through the years, especially me personally, is because this reminds me, this community reminds me of the values and the principles that I was brought up with when I was growing up. And so that remains in that community and they're very close, they're very loving and very caring. I've seen the children grow through the last ten years and they're very caring responsible kids. So please remember dove springs and river city youth in the future throughout the year when they need your support. And the city of austin, thank you so much for serving and helping since 1984 back when I was a counsel aid. So it's been a wonderful experience. Thank you.

[Applause]

>> and council member morrison, I know you're going to enjoy this.

>> Morrison: yes.

>> We have a singing santa with us here today. And he's right here, and the children are just ready to go. They are going to share some musical joy with you. They're going to be singing also on saturday at the merry memories, and we want to leave you with a feliz navidad.

[🎵 Music playing 🎵]

[applause]

>> bravo. Again, thank you, laura. We love you.

[Applause] and I want to say thank you for all of you for that wonderful gift. And now we'll do a photograph, if we can.

[Applause]

>> council member morrison, this is for you. You love the song feliz navidad, so now you can play it.

[🎵 Singing 🎵] when you wear your hat. thank you so much.

[🎵 Singing 🎵]

>> feliz navidad. Feliz navidad.

[Laughter] thank you so much.

>> Thank you so much. Feliz navidad

>> all right. Come join me, marla. Let's do this. Welcome, guys. Thanks for coming down to city hall today. All right. The last proclamation of the evening, and dare I say the best, we saved the best for last, this is going to be the end of eat/drink local week, so every year we have restaurants and vendors all around the city that participate in eat/drink local week and it benefits the sustainable food centers and organizations like urban roots, who have a farm -- a farm, shall we say, over in east austin that produces local fresh produce. And these are kids who are part of that program, along with their executive director, max elliott and we're joined by marla camp. So I'm going to read a proclamation and then ask marla to say a few words, maybe, and whoever else would like to. And the proclamation reads, be it known whereas scores of area restaurants are participating in a week-long fundraising event according by edible austin magazine for urban roots and the sustainable food center, two local nonprofits that use sustainable agriculture to transform the lives of young people and to increase the access of healthy food in austin. And whereas part of the proceeds from all the fundraising special events happening this week, as well as from the contributions from participating restaurants that are featuring special menus of locally sourced entrees and drinks will go to urban roots and the sustainable food center, and whereas the urban farm bicycle tour, an even with raj patel, the alamo movie bene feast and auction take place as part of local food and fundraising. Therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby encourage austinites to experience the abundance of local and fresh food in central texas, and do hereby proclaim december 1 through the 8th, 2012 as edible austin eat/drink local week 2012. Congratulations.

[Applause]

>> thank you, council member martinez. I just want to say thank you to all of austin for participating in this great fundraising and awareness-raising week for local farmers and food makers all over central texas. I have with me andrew smiley from the sustainable food center and max elliot and a great crew of urban roots youth and I'll quickly turn this over and each will say a quick word.

>> Thank you. So on behalf of sustainable food center we wanted to express our appreciation for this proclamation and i think it's important note that we represent about 300,000 folks in central texas that includes about 9,000 communities, school and home gardeners, about 200,000 visitors to the farmers market every year, shopping with about 120 local farmers and other food producers and then of course the hundreds of happy kitchen healthy cooking class participants. So on behalf of all the folks who benefit from the growing local food movement in central texas, thank you for this proclamation and thanks to you, marla.

[Applause]

>> on behalf -- this is a very exciting time for us. Not only celebrating the local food sment and all the bounty central texas provides but also the young leaders who are the youth food advocates, taking on the next level of leadership to celebrate not only the healthy food that's grown here but ensuring everybody has access to affordable healthy food. So celebrate the service to give back. I'd love to have the people come up and say your name and your school.

>> Thanks.

>> Hello, everyone. My name is dorothy luckyhairs and I attend lbj high school.

[Applause]

>> hi, everyone, my name is shamar brown and I go to lbj high school.

[Applause]

>> hi, my name is sophia castro and I go to austin high school.

[Applause]

>> hello, I'm sophie castiano and I'm from k austin collegiate.

[Applause]

>> hello, my name is joe house, and I'm 15 and I go to lbj.

[Applause]

>> hi, my name is sandra monne and I go to john h.hedron college.

[Applause] core tana core tan a we are out of recess and we will pick up where we left off, take item number 71 off the table. And council member tovo had the floor.

>> Tovo: Okay. Thanks. Vy a few other questions for director hensley. As we were talking about before the break, it sounds like there are a couple of different intentions here, and I's my understanding that -- it's my understanding this arose as council member riley said, it arose out of a desire to assist casa de luz a resolution to the parking issues. As I talked with people during the break associated with casa de luz. I asked a question and i think the people I asked didn't know the answer to this but has anybody from casa de lus approached the parks department about coming up with a shared arrangement for that parking lot, rather than tackling something city wide to see if it is a possibility for this parking lot to enter into a shared arrangement because at a minimum that would answer the question whether this is underutilized parking lot, where there are any spaces available. I am sorry, that was a you questions.

>> Sarah hensley, director of parks and recreation and the answer is yes, they have. They have not directly met with me and staff on several occasions actually to discuss some opportunities.

>> Were they looking for, in essence, to rent spaces or to kind of seeing where there was spaces available for free?

>> Opportunities. Opportunities.

>> Tovo: And so did the staff have an opportunity to assess whether or not they had availability in that lot?

>> Well, we did the best we could and at the time when we had talked to them early on there was quite a lot going on there with some of the parking being down because of the tunnel project and then of course aisd was very active over there and we were still in negotiation with the theater around so at that time we said we didn't feel comfortable setting aside or designating any parking spaces and the staff were pretty determined at that time they didn't want to enter into something.

>> So that --

>> we had discussions, absolutely.

>> Tovo: At that time it seemed like there were no available spaces, so I guess I have expressed some of my concerns about what is before us today. I guess another one I would say is we are not even sure if this is going to solve the problem that gave rise to this resolution if we are not -- if it's not even really clear whether this parking lot could accommodate -- could provide some spaces for casa de luz, then we are taking on a city wide solution for what is really one specific situation and then it may not even qualify as underutilized, the parking lot may not qualify as underutilized, it seems to me.

>> I think -- I haven't been out there to just gauge all of the times but I can tell you in all honesty that there probably are some times that there are spaces available at that site or in and around the

area. The information that council member riley provided, as far as it being open at dimes and available is absolutely, I would believe, to be correct.

>> Tovo: Well, do you think it would be worth having a discussion in the next couple of weeks between park staff and casa de luz to see if there are opportunity there is for a localized pulse, or at least not having a discussion. Would it be appropriate for you to look at this situation -- ask your staff to look at this situation and see what the availability looks like, just over the next couple of weeks and see if you can come to any conclusions about the the availability.

>> Absolutely. We can match up now the agreement we have with the zack scott theater and the little league and look at matrix point of view to see what we have available and how many and we can absolutely do that.

>> Tovo: Do you have a sense of -- I know this may be a question for the sponsors rather than for you directly. But are there other opportunities -- and my comments I talked about the off site leasing of space. Do you have a sense of whether opportunities like that would exist for this business?

>> Well, I will say this. That when the staff met with the casa de luz group, we looked into the possibility of partnering with the condo -- the groups that are coming in. There are two new condos being built now and there was one previously. That was our recommendation. We had no idea whether there would be spaces available or not. We were trying not to say no and trying to look at other options to see if there were some other opportunities, knowing we may not have anything at all or if we did, it might not meet what their needs are, what are some other options and we recommended the condos. Other than that, I am not privy to any other information.

>> I am not sure if someone is to speak from casa de luz perspective that they pursued other options. If I take a list at -- if i check off a list of preferable options, I would think for the company to go out to other businesses in the area to contract for other spaces would be far preferable to see if we have any spaces in our park land parking lots for them to use because it does seem like at least -- it sound like it's going to be a challenge to find as many parking spaces as they need in that lot. And I guess my concern is that it really -- it also could potentially restrict what happens in that park over time, if some of those spots are allocated to this use.

[Applause] but, you know, I guess there is really know way to assess that at this point.

>> It's hard to assess the -- we know what we have currently, and because it's a public parking lot, there are many parking purposes there. People park there all the time for different reasons. I am sure some casa de luz patrons park there and we don't go over there and start figuring out who is there and who is not. We were just most concerned about it being a public parking lot and making sure it was available to the public in general and so i have no way of gauging that other than actually monitoring the lot.

>> Tovo: Do you have a sense of how many other parking lots are associated with park land that would meet the requirements in terms of proximity to private businesses? I mean, I guess I want

to get a sense of -- have you had an opportunity to get a sense of how many parking lots city wide would be affected by the passage of this resolution?

>> Well, from a holistic point of view, every single lot that we have that is associated for our park land from use of public park, public park, senior center, golf course, on and on and there is a lot of that could be potentially available for this kind of partnership that we would want to make sure we knew if they are actually underutilized or have the ability to have a partnership like that or an effort like that before we go forward and actually create something that might hinder the general public's use.

>> And so your response talked about costs. I want to clarify. Would there be -- would there be a cost associated with figuring out which of those lots city wide are underutilized?

>> As I mentioned before, currently -- I would have to pull staff from current jobs, which would delay other things to start focusing on this, if we were looking at this city wide. And I have no idea what that would be, the cost of it, but I can assume that it would take significant staff time to take all of our lots and have someone out there to look at whether it's underutilized or not and then try to figure out even when there is open public use if it's used to a certain potential. I wouldn't want to enter into an agreement and find out later there was actually overuse.

>> Tovo: We don't have a fiscal note for this -- have you been asked to prepare a fiscal note for this item?

>> No, I have not.

>> Tovo: Okay. All right. I guess that more or less concludes most of my main comments or most of my main questions at this point. I know council member morrison said she had some. I am very uncomfortable with this broad brush proposal and I would ask -- I am going to make a motion that we ask the park staff to -- if this is appropriate, given our posting, to look at the specific parking lot in question and maybe report back in a memo or something like that, but postpone action on this today. So that's where I am thinking right now.

[Applause].

>> Mayor leffingwell: Motion on the table now. I just want to make sure. No motion on the table. State your motion again, please.

>> Tovo: I thought council member riley had made a motion to support his resolution.

>> Mayor leffingwell: That's what I thought. Okay.

>> Tovo: But I know council member morrison had some questions so I will make -- I can make a substitute motion later or --

>> mayor leffingwell: Council member morrison.

>> Morrison: Thank you. I think council member tovo really addressed most of the concerns and questions that I had. I do want to phase it up just a little bit because as I understand it, this would be breaking new ground in that we are contemplating city wide -- potentially city-wide use of park land for commercial purposes. Would you say that is an accurate statement, that's breaking new ground? It.

>> 'S breaking new ground by partnering for the use of public parking lots on park land.

>> But more generally, do we have partnerships using park land for commercial profit making ventures?

>> Let me think about it. I don't want to say one way or -- commercial ventures -- not without entering into an agreement that's been approved by council.

>> Morrison: Well, I mean, i am not thinking of -- I am not thinking of concessions that are park uses. And I know there was a question -- we had the -- wrestling whether the hostel was a park use or not but that is in fact nonprofit. But do we have any parks being used for profit making ventures which from a general perspective this is?

>> No.

>> Morrison: So that's really breaking new ground, which concerns me, and we have -- we have some pretty significantly strong laws in this state for protecting the use of park land.

>> Yes.

>> Morrison: Could you talk a little bit about that? I know I was sort of surprised to learn about how once it's dedicated as park land, you can't just take it back. You know, it's really strong protections in that regard.

>> There is --

[applause] -- texas parks and wildlife code that says sell, convey, alienate park land. It has to go to the public, chapter 26 and there are strong laws and people are very supportive and dedicated to the fact it is park land and open to the public, so, yes, there are specific laws pertaining to that and it requires specific action by that government body.

>> Morrison: Okay. And I think that that's important to keep in mind, because when we talk about chapter 26 hearings, I know that -- I forget who it is -- our staff that always comes up and says that we need to determine one specific thing, that there is no feasible alternative. That that's the -- that is the standard that we have to use about whether or not that is -- I guess, I don't know how we can possibly say that there is no feasible alternative to a business not getting parking. They can go buy parking somewhere else. Do you have any comment on that.

>> Well, I asked -- they say there is no prudent or feasible alternative that would require the taking or use of public park land, but, again, it is something that's very -- a serious issue related

to park land and if use of park land and it's something that needs to be looked at very carefully so that we don't set a precedent that would bloom across the city.

>> Morrison: You know, are there any other cities in the state of texas that -- that do this? I think that would be really interesting to see if --

>> I don't -- I don't. I couldn't say that at all now. I would have to look to find out if there are.

>> Morrison: And then my last question is, you mentioned that you will have to pull somebody off something else to do this and and so just in terms of develop -- just in terms of responding to the resolution, not implementing such a program, but just to be able to provide the answers and process it, it would -- that's what you are talking about?

>> Yes, to be able to fully make sure I look at this so I am not creating a problem instead of a solution, that we thoroughly look at this and that I have staff dedicated to really research underutilized lots and make sure I am providing council with the right response and a truthful response and doing our due diligence. I would want to make sure i had a staff member that would spend time really looking at this from a holistic point of view if looking at the whole city. I would not want to give you something that is not thoroughly vetted.

>> I guess I want to close by saying I have serious concerns. I prefer to take just some baby steps here, thinking in terms of -- we have two issues on the table. One is the big broad brush, let's open up our parks for commercial use, and the other is, let's talk about finding a solution with our parks department for the casa de luz situation, and so I believe council member tovo is about to make a motion, which it sounds like she is going to suggest that we break it apart like that and I would definitely like to -- hope -- or I would add to such a motion or suggest that she include in such a motion that in those few weeks you also do some research into what other cities might be doing similar programs so that we could sort of see what we are stepping into before we actually start dedicating our resources to it around having to cut back on other programs that we've already approved. So I appreciate that and i look forward to hearing a substitute motion.

[Applause]

>> Spelman: Mayor.

>> Mayor leffingwell: Council member spelman.

>> Spelman: While you are there, sarah, there is a whole bunch of ways of skinning cats and this is the broadest brush means of skinning a cat we can think of, if our concern is parking with casa de luz in a relatively fairly used parking lot and when it is heavily used, casa de luz is closed, it seems there is a natural means of taking advantage of that, that otherwise scarce resource and include of looking at broad brush city wide program, we might be able to make a deal with casa de luz and also council member it is not in your head when saying this, suggesting that even there is a general principle here as well we don't want to use our park land for commercial purposes, in some circumstances, that might be okay. Is there another instrument that we might

use that might direct you to safely have a conversation with the casa de luz people to see whether this one situation might work?

>> Well, I mean, I think, there is two ways. One for us to look at the agreements and look at when that parking lot is actually available and not commit it to an agreement.

>> Spelman: Sure.

>> Number one, number two and looking at the table and see what is exactly needed and look at the way -- and i think if I pam correct that was the intent from the resolution at least it wouldn't bind us from a city perspective, at least the way I read it, if there was a city purpose and we wanted to use it, that we would trump that but if there were some spaces available and we could look at that, then absolutely that would be a way to address that.

>> Spelman: I think -- i understand why we are using the word underutilized but of course all of our parking lots are underutilized most of the time and very, very heavily utilized some of the time. This is a situation where when we need it, we absolutely need it and casa de luz can't have it.

>> Right.

>> But the vast majority of the hours in the day, we don't have anybody in there and it would be perfectly okay for casa de luz to have it, we find some instrument. What kind of authority do you need in order to start negotiating is too fancy a word, to having a conversation to see if there is anything there.

>> I can go back and have a conversation with them. First, I will pull my staff look at this and say when we notice absolutely not binded and no commitment from another organization.

>> Spelman: Right, of course.

>> And then have a discussion about what -- when it would be available.

>> Spelman: Sure. And that's something you could do without our necessarily telling you to do from a former resolution or anything like that or ordinance?

>> I believe I can. I am looking at the city attorney's office, I believe I can.

>> Spelman: The lawyer is nodding her head. I believe that's good. Okay. Regardless of whatever else we do with this ordinance, if you can do that at minimum, I appreciate it.

>> And I can come back to council or by way of a memo with exactly what I have been able to uncover from a -- what we are binded to do by an agreement and then what we have available that is actually open.

>> Spelman: That would be terrific. Thank you, sarah.

>> Mayor leffingwell: Council member riley.

>> Riley: I would just like to make a few points. First, this is not something that came up last week or the week before. This is something that -- the issues with casa de luz have been going on for years now. There have been literally dozens of meetings with park staff, with other staff trying to -- and especially with city legal staff, trying to find a solution to this problem. The parks department has been actively involved in trying to find a solution to this, particular to casa de luz nor for years -- for years through dozens of meetings literally. We did not come to this recommendation lightly. This was the result of seeking out some -- some possibility of something that could work and then everything else we came up with ran into walls. They also pursued numerous -- of course obviously the first thing they did -- one of the first things they did was secure agreements with other surrounding properties. They have had a number of nose agreements in place over the years. They could show you maps identifying every property owner in the area. I have spoken with many of those property owners myself. They have talked to oh property owners. -- Other property owners and have had agreement in place but the problem is as that area as densified, the pork parking in that area has been harder to come by and so it -- it's now -- we have now reached a point where there is just -- they are not able to meet their requirements through a simple off site parking agreement. It is just -- there is just not parking within 1,000 feet that is available to make that work, although it has been exhaustively tried and in some cases done at times. It is just no longer an option for a long term solution. As we continue to work on this and try to craft a solution, the law department advised us we could not be talking about one off deal that benefit this one business, in interest of fairness and from a legal standpoint, there was a very strong recommendation that we come up with some mechanism that would apply -- that would be available to city wide rather than some one off solution that would be available to this one business. That was a very emphatic recommendation from the law department and that is why you see the proposal before you today. I understand a concern about profit-making ventures, making money off of our park land. I would note we have a number of -- for many years we have had a number of profit making concessions available in -- in our parks as a way of enhancing the park experience for park users as it -- and as it happens, the business that prompted this initiative actually is not a profit making venture. Casa de luz is a nonprofit, and just -- just as a concession, can add value to a park experience, a thriving business across the street from park land can also make the park a much more appealing place for all users, just by virtue of being an appealing business and you add on that the amenities they are talking about providing and actually engaging the community around casa de luz in active support and maintenance of that park, then you are talking about very, very significant enhancement of the park that would not be available without impactive engagement of -- of the casa de luz and the community that supports it as is contemplated by this proposal. Lastly, I just have to have a word about staffing. There has never been any suggestion that the park staff would be expected to do an exhaustive inventory of every park and analyze every underutilized parking across the city, that would be frankly ridiculous and nobody suggested such a thing and to suggest that staff would actually go and do that is silly. There is absolutely no reason why staff would have to take on something like that. If a business -- frankly, we have tried to identify other situations where we could picture something like this being an appealing solution for a business or a park and we haven't come up with any other examples yet. But the way it would work is if something like that were to turn up at some point in the future and if a business were to approach the parks department saying, we think that we can really bring value to this park and we could really use

the parking spaces that underutilized at that sometimes, then park would enlist the help of the transportation department which routinely does is assessments of parking capacity and of course the residential parking permit program and other programs and they are very good at measuring the utilization of parking spaces. They have the expertise to be able to do it -- and the staff, to be able to conduct the study like that. They do that all the time, and the idea is that they, in that instance, upon request, they would go out do an assessment of the park and determine the parking patterns and then we would go from there and think about value the neighboring business could bring to the park and then a discussion about how we would enter into some mutually beneficial relationship with respect to that particular park. I do not seeing that as a significant draw on staff time. In fact, we don't know any of any situations right now, other than the one we spoken about, in the zilker neighborhood where that would be the case. So I think this really, as far as we know, this would be -- in the foreseeable future, we would be talking about dealing with this one very specific situation, where you have a park whose only current use is ball field, which are unused most of the time. Currently, if you -- if you go and look at googins maps right now -- google maps right now, you see for ball field there is sitting empty, and a number of cars sprinkled through that parking lot. Currently, those cars are parked there illegally and so if we are really doing our job and enforcing the law, the -- by using mechanisms we have available now, the appropriate response to that would be to go in and ticket all of those cars that are there and if we are really on our toes about enforcing city rules and regulations, the city would proceed to shut down casa de luz, so you would have a park that continues to be in rather shotty condition. You would have an empty surface parking lot and you would have a shuttered business with a community missing the institution that they used to add value to their lives and to the whole park experience around here. I don't think that is the kind of -- is a favorable outcome for this area. I think a better outcome would be a solution that utilizes the assets that the business has to offer, especially the willingness of the people who support it, to get engaged in this park and to help place amenities and to maintain improvements in the park and then to actually make use of those parking spaces that are there at times when they otherwise would be sitting empty. That to me is a win win solution. It would not require a lot of staff resources. It would mainly draw upon the energy of those across the street, at casa de luz, those folks who are there and willing to commit time, energy, and resource those bring value to the park. That's all we are going, allowing a mechanism for them to bring the resources to a park to the benefit for all who use the park and this would not in itself ensure we reach that solution but provide a mechanism to provide continued conversations as to how we would get in and that's why I support -- get there and that's why i support it.

>> Spelman: Mayor.

>> Mayor leffingwell: Council member spelman.

>> Spelman: I wish I were as irodite as council member riley is at this time of the evening. I am not right now, if i ever with was and I wouldn't try. That is exactly what we should be doing. Why are we -- well apparently we are advised as usual to use icbm to dig a posthole and I wonder why we have to do that. Why do we have to pass an ordinance to make at least overtures for a sensible one-off decision?

>> I can't answer that question.

[Applause].

>> Spelman: You -- I can think of a billion reasons why this might not work and you might, after you have had some conversations with the casa de luz people come up with any one of those billion decisions and if it -- one of those bill things is really from your point of view, I am prepared to answer and I am sure council member riley and the rest, but if there is a way for this to work, you shouldn't be prevented from being -- getting involved in the conversation which might lead to a good decision, just because we are doing this on a one off basis for one park and one business in one part of town and we aren't doing it everywhere, in my opinion. Are you okay with this?

>> Yes, I am. I mean, I am okay by at least having the discussion and going back and looking at the matrice and everything, but I can't answer your question about the ordinance and all of the -- I don't --

>> Spelman: At this point, i have no interest whatever in the ordinance one way or another, but I have a sort of morbid curiosity as to why it is that we had to go down this particular route, which was bound to create all sorts of trauma rather than the simple and easy route which is you have a conversation with casa de luz and see what happens. Is there somebody from the law department who can give me an explanation in sort short -- short sentences using words of two or three syllables? I would prefer not to.

>> Ann morgan, deputy city attorney. I think there are legal issues on this. I would be happy to talk about it in executive session but we have been advising council member riley with some of the issues involved with the problems of not having parking at casa de luz and so we --

>> Spelman: I understand you much prefer to give us advice in executive session. I understand that, and if you feel a need to do that now, then I will just ask -- not ask for the advice, but is there a threshold hensley having a conversation and seeing whether or not there is an opportunity whether holding aside any legal obligations we may have to the rest of the community, if there is an opportunity for win win situation, just between casa de luz and our parks department? Is there any reason she shouldn't have that conversation?

>> I think we have had lots of conversation. She can certainly have a conversation with them. I think it's clear what their needs are.

>> Spelman: Yeah. Okay. Let me ask the next question. If there is an opportunity certain times of day, certain days of the week, when we are not using the parking lot, or the public isn't using the parking lot for parks and casa de luz needs pork ever parking, is there any threshold of making one off agreement or do we have to have an ordinance like this which allows for possibilities of agreements all over town?

>> I think we had talked about not singling out a particular business and so that's why council member riley is making this suggestion, about city wide ordinance. So further than that, i think I probably ought to talk to you in executive session. They can certainly have a conversation. You don't have to have an ordinance to have a conversation.

>> Spelman: I will yield the floor.

>> Mayor. i will just say -- I am not going to take much time. It seems to me what we are considering here is a resolution to develop an ordinance. We've got a long way to go before we go to the point before we actually put something in place and all of these considerations that we have been talking about on the dyas here tonight would be most properly considered at that time. That's just my opinion.

>> Mayor, I want to add --

>> council member martinez.

>> Martinez: Sometimes when we are trying to think creatively and do new things, we run pilot programs and I don't know if -- because we have specific ordinance we have to adhere to that -- that precludes us from running a pilot program but if there is some perkingtory area where we -- a purgatory area we can enter into a pie lat program without amending the code but speaks to issues everybody has been talking about, can we attempt a pilot program without amending the code and adopting an ordinance?

>> I think the proposal that is embodied in the ordinance is one that would require -- would have ldc implications and so I think that's something that would have to be done by ordinance and i think that certainly the oranges that would come back to council under this resolution could be crafted and narrowed to be a pilot program. There is another ordinance before you earlier today that established a pilot program. So that would certainly be an option. Additionally to the extent there is a motion to postpone, certainly director hensley would have the opportunity to not only have conversations but also to assess the potential availability of parking at that lot. That would be certainly something that professional staff can gather information for council at your request always. sure enough. Can she do that anyway, if the resolution passed? Wouldn't that be like step one?

>> Certainly. I just think we have to figure out a way to --

>> mayor leffingwell: Council member martinez.

>> Martinez: Thank you. I think we have to figure out a way to take creative solutions and see how they work before we go changing our code and making permanent sweeping amendments to this and so --

[applause] and so there has got to be a way to do this. I am not a lawyer and I am not questioning you, brent, I believe what you are saying but we've got to figure out a way to do this so when these instances come up, we don't sit here for two and a half hours on something that could have been a pilot program that was implemented six months ago. So help us. i think we just heard is there has to be an ordinance to create a pilot program. Did you not say that?

>> Spelman: Did you say that, brent?

>> Yeah, I mean, this proposal, whether it is a pilot program or ordinance has lde implications, so regardless of its duration, whether it's permanent or pilot, it would require an ordinance, definitely.

>> Spelman: Mayor.

>> Mayor leffingwell: Council member spelman.

>> Spelman: Perhaps we are doing this in the wrong order, rather than passing a sweeping -- a resolution asking for sweep changes in the land development code. Maybe we can do is direct hensley and her people to have that conversation and figure out whether there is a deal to be made here. If there is, craft the minimal changes in the code necessary to allow that deal and perhaps a couple of other deals of similar type to happen in the future. Brent, is there a difference between those two points of view, or is it pretty much -- is it necessarily -- does it necessarily amount to the same thing?

>> I think that deputy morgan accurately summarized some issues that we previously raised in connection with the sort of macro approach versus an approach that's more narrowly tailored to a particular landowner. In the event that council does postpone this item w the understanding that additional information would be gathered, we can be prepared to provide that legal advice to the council as a body at the appropriate time through an executive session or to follow up and I think at this point we have said all we can in this setting regarding those issues.

>> Mayor leffingwell: Council member tovo.

>> Tovo: Thanks. I think one I would like to understand better legal -- some of the legal implications that are you are not able to talk about in open session and I don't have a rule to ask you to go into executive session right now given the hour and number of issues we have in front of us so I would absolutely like the opportunity to hear that information. And to understand whether something -- one of our speakers mentioned this before, not in favor of this particular pilot program but it seems like we might have a model looking at royal blue grocery and the two parking spots that were taken from use for side block seating. I think it was a pilot program and we didn't have to pass a sweeping ordinance that I recall. It allowed to happen all around town, but any case, aim proposing we postpone this to january 17 with some direction to the staff to please go forward and have a conversation and -- and make some determinations about whether this parking lot is even available and i appreciate that we don't want to single out a business but it is really clear from our discussion here tonight that this resolution has come forward to for a solution for a particular business, so i think if we are trying to, you know, be careful about not crafting solutions for a particular business --

>> mayor leffingwell: Motion by council member tovo -- substitute motion to postpone until january 17. Is there a second? Council member morrison. And.

>> Tovo: And I would like to see a fiscal note to initiating a code amendment is not a cost-free activity. I would like to have an understanding of what the costs are in making assessments. It does involve staff time and time from hour board and commissions. I would like to understand

what underutilization is and how it is defined and how a lot is underutilized, talking about one in particular, where we do have parks where it is difficult to get parking. There are some where the parking lots are always full. Whether it is possible to do an actual transaction, how we will define whether or not there are other viable alternatives. Anyway, those are some of the things I would like to hash through. But in any case, that is my pitch for allowing there to be a more specific localized discussion to happen for a briefing of council on the legal issues involved in potentially exploring a localized option and giving us all time to get more information about the other issues I mentioned. i certainly agree with one of your comments there, that a consideration of staff time involved in all of the items that are -- items from council should be a major consideration, not just on this item but on all of them

>> and so I will take that suggestion to heart for future reference. Council member morrison.

>> Morrison: I just want to clarify -- make a couple of comments, but clarify the motion that was just made did not ask staff to go investigate that whole list of things, as I understand it. It is to put off investigating that whole list -- i understand it's simply a motion to postpone.

>> Morrison: Motion to postpone but I also understand that there is a request to staff in the interim to go take a look at what a particular feasible agreement, for want of a better word, would look like with casa de luz and I think we will then have the opportunity to take that and, number one, have a discussion in executive session so we can fully understand the staff's concerns, our legal department's concerns but if we are going to generalize this, we can generalize it from that particular solution that you found if it's going to work at all, as opposed to from the top down so we can generalize it from the bottom up so i think it's a much more conservative and safe way to go in terms of making sure if we are going to do something like this, we don't overreach unnecessarily. So I will certainly support the motion.

[Applause].

>> Mayor leffingwell: Council member riley.

>> Riley: I just want to make sure I understand the expectation because I heard a couple of different things about what would be going on during the time of the postponement. Is it matter of having a conversation with casa de luz or is it also a matter of looking into these other issues that -- i think the maker can make a comment.

>> Tovo: I would like it simple. I would like the staff to going forward and first of all looking at the parking situation and have a conversation with casa de luz and also I would like casa de luz to explore their other options for parking because if there are -- i appreciate what you said, council member riley and i don't know the extent of the conversations you have had and that staff has had and others but if there have been dozens of discussions with staff from the parks and they were not able to come to a comfort level with parking -- having available parking, then we are going to have to -- they are going to have to explore some other solutions. Any case, I am happy to give staff encouragement to go forward and have another conversation with casa de luz to look at this situation and see if they have parking available but my motion is to postpone until then with the request of staff we also have executive session before it comes back.

>> Riley: If I may mayor.

>> Mayor leffingwell: Council member riley.

>> Riley: If all we are talking about is having another conversation with casa de luz. I don't think you need to take until january 17 to do that. I just ask could we consider a one-week postponement in light of all of the conversations that have already taken place and it would be a matter of having another conversation or two between now and next week. i would take that as a proposal for a friendly amendment to the maker to change the postponement date until december 13th? Do you accept that?

>> Tovo: Not without feedback from our staff. I mean, one week is -- we have got a lot of issues on next week's agenda, too, and I don't know what their availability is like and it seems like are asking them to have a conversation but also whether there is available capacity in that parking lot and get back with other partners and look at agreements with the other partners and it seems unreasonable to happen in a week but I will ask them to say.

[Applause].

>> Sarah hensle director of parks and recreation, it would be hard but if somebody wants to notify you on december 13th. It is friday tomorrow and to schedule a meeting, I would like to be myself and have staff look at the agreements, which we can do. We can make it work if you would like us to do it. I would like more time, but, you know, again, if you like us to be back, we will hoop it.

>> Mayor leffingwell: That's your decision, council member.

>> Tovo: Yes, would would like to stick --

>> mayor leffingwell: Council member morrison.

>> Tovo: I am not going to accept it because i understand and appreciate the interest of moving forward it but I think we need to have good answers and good information in front of us.

[Applause] I think that is a better chance of that and getting a productive discussion if we wait until january.

>> Mayor leffingwell: Substitute motion to postpone until january 17. All in favor, say aye. Opposed say no. No, passes on 4-3. With council member riley, council member martinez and myself voting no.

[Applause]

>> mayor, I want to -- mayor pro tem?

>> Cole: I voted no. you voted no?

>> Cole: Yeah. then that motion fails with 3-4 with us voting no and mayor pro tem cole voting no, also, and that takes us to main motion, council member riley.

>> Tovo: I will make another substitute.

>> Mayor leffingwell: Council member tovo.

>> Tovo: I will motion that we postpone it or move that we postpone it until next week.

>> Mayor leffingwell: Council member tovo makes substitution motion to postpone until december 13th. Second by council member morrison. Council member martinez.

>> Martinez: I think if -- you know, the work that council member -- one of the things that I want to honor and respect is the work that council member riley has done. Postponing it a week to have a conversation, I don't know makes any substantive difference than adopting the work that he's done and allowing those conversations to still g moving forward. I would hope to move forward with a a pilot project rather than rewrite the code every time we do something like this, but, you know, I -- postponing it doesn't do anything but shove it down another 7 days and then maybe next week we postpone it again if nobody is happy with it. Council member riley has done some work here that i am going to support and honor and just hope that we can come up with better solutions in the future.

>> Cole: Mayor. i concur with council member martinez. Mayor pro tem cole.

>> Cole: I just -- I also agree we need to think about the work that has already been done by staff and council member riley and his office but more importantly, this is just a resolution. It is not the actual ordinance and we will get a chance at the implementation phase to actually look at the detail on most of the issues that have been raised, so I will not be supporting the postponement. All in favor of the substitute motion. Council member morrison.

>> Morrison: I would like to reiterate one critical thing about the substitute motion and that is it would potentially allow us to determine whether or not this general solution is even going to be a solution for casa de luz and so i think that's a very reasonable way to go.

>> Tovo: Mayor.

>> Mayor leffingwell: Council member tovo.

>> Tovo: I see at least one of my colleagues looking confused by that response. We have heard no information that suggests that this lot is even available for use by the business that needs it. So we are crafting a -- we are asking staff to initiate a code change that is going to involve staff resources in evaluating and the time of our boards and commissions and everything else and initiating a change in the land development code we are not even sure this particular parking lot has the capacity to provide the kind of parking this business needs.

[Applause] and I am going to reiterate that if it had conversations with the staff and it wasn't a go, there is probably a good reason it wasn't a go and it might be that lot is not underutilized. It will not meet the definition of having capacity, so I think there is a tremendous amount of value, of at least giving staff a few days to assess, rather there are other options here, and you know, without knowing some of the legal issues involved, I think it's -- and without knowing the cost of undertaking this resolution, I think it's not responsible choice for us to move forward. All in favor of the substitute motion, say aye. Opposed say no?

>> Cole: No.

>> Mayor Leffingwell: Motion fails on a vote of 4-3, with council member Riley, council member Martinez, myself, and Mayor Pro Tem Cole voting no. I call the question on the main motion. If there is no objection. All in favor of the main motion, say aye. Aye. Opposed say no. Passes on a vote of 5-2, with council member Tovo and Morrison voting no. Council, with no objection, we do have some out of town guests, I would like to call up item number 114.

>> Good evening, Mayor, City Council, Milken Johns, Director. Ergso. This is the public hearing for the proposed economic development agreement with Visa. Representing the company here today is Brad Byers, the head of real estate and Nancy Claiborne who is their global director of human resources. There is one additional piece of information we are going to distribute to you, with numerous discussions that have been had over the last few incentive agreements over workers, contractors, and given the fact this particular project is not the construction of a major building. It is a renovation, which is especially one tenth the size of -- of an apple, for example. The company has provided additional language which we are going to circulate to you and it's one paragraph, but it does, we believe, address the issue of workers' salaries and I am going to ahead and read that as you look over the -- the paragraph and we -- we are doing this in -- Visa -- we are trying to be proactive so that we can really get to the heart of the matter. The company will contractually require its architect and general contractor and their respective contractors to play -- to pay employees hard to make leasehold improvements described in the paragraph which is \$27 million, which will be shown later. One, an hourly wage that meets or exceeds the prevailing wages for Travis County, as set forth by classification in the attached prevailing wage chart. That's prevailing wage, or, two, a minimum wage of \$11 per hour, whichever is greater. The company shall require its contractors to provide a monthly certificate of affidavit that they are in compliance with this section, which shall be made available to the city for inspection upon request, provided, however, that the company shall not be required to maintain additional record on individual workers who are not with the company who are not affiliated with the company. So that's the only new bit of information and the company and staff are available after the testimonies. I would like to ask the representative of the company come up now for a question on this item. As it was mentioned in this briefing just a minute ago, you are not building a facility from the ground up to house your operation here. You are basically taking an existing building and remodeling or retrofitting it as needed, with a much smaller operation, requiring a different class of skills -- labor skills. So my question is, if you are in a situation where you were building this facility from the ground up, from vacant land, constructing a facility, would you be able to offer or accept this condition?

>> Not with the information we have right now. I had an opportunity to talk with our construction manager and a contractor who understands visa's requirements, and what we would need to do in a facility like this, and, you know, there are certain specialty spaces that we need to build. We need to do that on a certain construction timeline. And so when they looked at this issue of prevailing wages, they felt for this particular project for us, it would not be a significant impact. They did, however, tell me if we were building from the ground up, that it would require much more study and they believe it would be very impactful to our -- our project in terms of a budget, from a financial perspective. the bottom line is you would not be able to accept this condition?

>> No, sir. i just want to make that important because this is a precedent-setting event and as we consider other applicants in the future for these types of agreements, i don't want it to be said that, well, visa does this entirely special independent situation.

>> Mayor.

>> Mayor leffingwell: Council member tovo.

>> Tovo: Well, we had an opportunity to meet and to discuss some of the conversations that have been going on as part of the economic incentives committee and also this particular provision and i just want to thank you for investing that value and recognizing it and adding this amendment. Thank you. I think that says a lot about the kind of company you are.

>> Mayor leffingwell: Council member martinez.

>> Martinez: Yes, likewise, I didn't get your name -- i don't know if you introduced yourself.

>> Brad buyers the head of facility and region facility for visa.

>> Martinez: Thank you. And I also want to thank you. I think what we are doing in the economic incentives subcommittee as a council is exactly what you have done, do the research, talk to your architects and the contractors, determine the impact it would have and determine whether or not it is something you can agree to. I really appreciate you taking the initiative to do this on your own. To me, this also demonstrates -- it may demonstrate that it could be a hardship in some certain cases and we have a provision that would allow those cases to be heard. But what it clearly demonstrates is that in many cases we can have these values to this proposal to only enhance it, make it that much better for all of the folks who are impacted by it and welcome you and visa and all of your workforce to your new facility here in austin, so I wanted to thank you.

>> Mayor leffingwell: Council member morrison.

>> Morrison: I very much appreciate that agreement on your part. I do want to have a little bit of a chance to have you answer some questions and talk about the issue that we raised, I guess it was last week that we met. The issue I raised with you all about the possibility of doing some training -- or actually identifying training that might help folks in the city that are perhaps underemployed, looking to move into tech and all of that that might help them come up to speed

on particular skills that you all know you are going to be looking at so it could be a win win in terms of making sure the pool is available that you need. And I your honor that you have had -- and I understand that you have had an opportunity to devil into that opportunity and see what the opportunities are in the area and I understand that there are programs available and I would love to here what you all had to say about that, after you had an opportunity to delve in into it.

>> I am nancy claybonn and the individuals representing visa today and we talked to the workforce commission and regarding their skill development program and actually this program is something that we think if we come to austin would be very interesting for us to explore further.

>> Morrison: And I think you were saying that a.c.c. Basically already has the framework in place for being able to come up to speed on targeted skills and all of that and bring them online relatively quickly?

>> Absolutely. They appear to have that in the conversations that we've discussed.

>> And then lastly, I know you mentioned also that there is -- there is a state program that you learned about in terms of the skills development fund and all that might be available for you all too --

>> correct. We have had several conversations with different agencies that we hope if we come to austin we can take advantage of in talking and developing our ideas further with them.

>> Morrison: As I understand it, that is a program that through workforce solutions as a partner with that, that can actually get funding and support to develop the programs that you all will need in your employees, and so I think that's -- I know you are estimating that you would be hiring 70% of your employees -- new employees as local folks, so this could be a great opportunity. We were brainstorming about, you know, folks that have liberal arts degree that might -- because I know that your target is for college degrees, but for folks that might have liberal arts degrees, if they can come up to speed on some rapid -- with some rapid training, they can, you know, perhaps jump into a different career path. For people that might have been out of the -- out of the job market and the workforce for a while, it might be a little bit rusty, to come up to speed. So I think it's a win win all around and it would be a win for you all if it can work. It could be a win for a lot of individuals here, so i appreciate your willingness to consider that.

>> Happy to do so.

>> Mayor leffingwell: okay. Let's go to our speakers. Clay dephough. Are you yielding?

>> No, sir, I am just pressing record and I am ready. We are rolling.

>> This is considering economic incentive package with the global -- to set up a global it center from visa in the desire sired development zone. I read through the contract. I worked at a law firm. I know something about contracts and visa's obligation is to invest 6 million -- that's the

requirement in the contract, before 2016. They have got three years to do that. Lots of money they've got to put in. They are supposed to get 794 jobs out of this.

[One moment, please, for change in captioners]

>> as he's now leaving the chamber. I find it very disgusting that you give this corporate welfare to a company that's not even in a struggling industry. I think the banks and the credit cards have enough money, and I'm sick of funding their needs, their unnecessary needs, and they don't need this money. They have millions of dollars, goldman sachs, google goldman sachs. These people are funded by disgusting creatures, international bankers, and it all goes back hundreds of years. This has been going on since the 19th century and the rothchilds, so you guys need to start being a cheap date for visa and companies from california that have no right to our tax money here in texas. Buyers brad buyers, you'll be publicly shamed. I don't know how you can sleep with yourselves at night and I'm not trying to taking anyone personally but you have to realize people are staiving here in austin and suffering. People can't make a living wage and you guys talk living wage all the time. \$11 An howsh. Isn't that right? -- An hour. I see the smart grins on the council. But here you're giving away these jobs. These people will make well over \$100,000. It's not fair. I'll give you a more intense analysis later but state statute, it's a huge scam, and lee leffingwell supports bush and giving away your tax dollars to huge corporations. Vote no. ronnie reeferseed. mayor, and yes, I am ronnie reeferseed, mayor, right now, and virtually every week, I am an out of town guest. And I would really please appreciate that you would honor my needs as --

[inaud

[inaud ible]

>> thank you so much. Yes. I couldn't help but when i heard that about out of town guests, hey, that's me. But anyway, this california transfer tax is the issue, really, and it's paid by who? By golly, austin, texas taxpayers, and the taxpayers are already -- it's 56 million that it's going to go into building this thing and not to mention, at minimum, \$200,000 that we have to come up with the -- on the -- like the transfer fee, it's 55 cents per \$500 of property value. That's a whole lot of money when you're talking about these huge projects and these huge property values. And so -- and that's just the 200 million that california taxes, that are going to be paid by texans, texans paying california their taxes, and that doesn't include all the local taxes here. For what, a global it center? I heard somewhere along -- the gentleman said, with no records? I'm sorry, I didn't quite catch all of his statements but he said those words and then sat down. But to me this is yet another example of slimy corporatism. It's ransom, paid by these bee league erd austin taxpayers, like apple. All cinldz of things come to mind with this, and it's -- kinds of things come to mind, like my learned colleague clay defoe was pointing out the state statute, and it came from 1997 from rick perry and of bush, and it's about the chapter 380, the city use of taxpayer money for, quote, local economic development programs. Now, what part of local applies to global loan shark scamster visa. That's about as nonlocal a company as I can imagine, but the chapter 380, that you're talking about, that's to use taxpayer dollars for local economic development program. Obviously anything that has to do with visa, huge world wild loan sharks scamster company that -- it's hurt me, it's hurt virtually everybody I know. I'm ashamed. I'm really ashamed that this city

council is thinking about coughing up more money for yet another special interest group of scalywags to come in here and steal from the austin public. We don't have the money. Thanks.

[Applause] richard bikturn?

>> C richard vickturn. I'll try to tone it down a little bit. Last week, this sunday we were greeted with an article in the new york times that i think gave us the most in depth we've ever had on incentives nationally and that they may be being abused. Monday texas was poster boy for incentives abuse. We give out more than anyone in the nation. But if you look at the article and read it through, accountability is what's at hand, accountability going in, do the incentives make a difference or will visa come without the incentives, and then after we grant the incentive is there accountability. Do we have anybody looking to see if the jobs were created, that all the standards that have been put into this agreement are adhered to. And so I don't think that can be done in -- that has to be done not in the city auditor's office buff in the financial function. This is a procurement. I think that we perhaps spend more time vetting purchases of staplers than we do of these economic development agreements.

[Applause] so I hope, you know, those provisions we put in here, if we proceed -- I guess that's it. Thank you.

[Applause] will mcLeod.

>> Good afternoon. I should -- or should I say good evening, mayor and council. For the record my name is will mcLeod, and yes, I am also from out of town. If you don't believe me, feel free to look at my texas d potato s card where it says I reside -- dps card where it says I reside in san antonio, texas. Even though I spend half my time there and half in austin I'm technically a san antonio resident. I come here to oppos visa. This new development, retrofitted development, where are you going to put it? On parmer in that area? It's not on a bus line. How are the people - - want to get to their jobs, create more congestion on 35? And they're not going to ride the choo-choo train. I don't think they would. Now, I've got some slides over here. They're talking about the transfer tax. Since they're going to be moving from california, you know the businesses that move from california have to pay a transfer tax. There it is right there. 55 Cents per 500 bucks, transfer tax weight .11%. I did the math on this. It comes up to at least \$200,000 going towards the coffers in california, that got them in the mess to begin with. Now, we can't spend money like it's going out of style. Let's show the next slide, please. Right there, did all the math. Look at that. Taxes, \$200,000, and that's assuming that this is only \$1,560,000. There are a lot of things we can do with that money. We could feed the poor, we could help the homeless. We could build affordable housing and have more buses. But no, we want to give more wealth to people who already have I affluent people, and to me if you have a college degree or above a high school education you are considered affluent. And this is what is helping. It's not going to help the folks in east austin. Council member cole, east austin voted for you and the majority of these votes come from east austin, and same thing with council member martinez. Why are we going to disrespect to say people, who a lot of them in east austin have more than -- they don't have more than a high school education. And this \$11 an hour. I don't make \$11 an hour. 03 an hour, and this is shameful for the council to kowtow to the lobbyists who don't have city of austin interest.

My father owns a business. He wants a tax refund. You can't give him that but you sure can with apple and the other people. next speaker is dave porter.

>> Mayor, council members, dave porter with the austin chamber. I know you've had a long day and I will be very brief. We appreciate the partnership that we've had with you over the last eight years and doing several incentive deals bringing great-paying jobs to austin. This is an expansion by visa. This isn't a relocation. They aren't moving from anywhere. This is because business is good, and looking at a replies to set up a new expansion opportunity. So that's what they hopefully will do here in austin. We appreciate your support on this and please vote yes. Thank you. thank you. Gary farmer? Mike rollins here? Donating time, dan graham? Is dan graham here? So you have up to six minutes.

>> Mayor, council, thank you for allowing me to be here. I'm gary farmer. I serve as chair of the greater austin economic development corporation, and our program called opportunity austin. Visa, as you all know, is a world-class company. They have an iconic brand. We're fortunate to have visa consider austin. We'll be very lucky if we should ultimately win the assignment. I appreciate your consideration of that. Visa is the kind of company that we want here, to continue to build our economy. They have, as you know, and some of you reached out and embraced them tonight -- they have accepted the \$11, and that's important, and we appreciate the fact that they have done that. I would make a note that not every company that comes to austin to provide good jobs will be able to do that. So as a cautionary note, i hope that the council will be very thoughtful before they adopt that as a policy position. This particular project is a great project, 794 jobs, as I understand it, new jobs. Yes, they do have a few jobs here already so they'll ultimately have over 800. Average wage of \$96,000, and perhaps more importantly, the bottom 10% will be at 61,000, or \$29.30 an hour. That's a very good wage. That's 794 shoppers. I'm a small business. I would tell you that small business will benefit from visa locating a facility in austin. There are a lot of artisans and crafts people that could benefit a lot of small businesses, moms and pops and others where their employees will come and shop and spend the money that comes into this community by virtue of having them here. I understand also that the net benefit after the public investment, and that's what this is, it's an investment upon which you and I as a citizen should expect a return -- after the public investment the benefit to the citizens of austin will 8 million over a ten-year period. Let's just call it \$680,000 per year. That pays for a lot of librarians, and firefighters and policemen and other first responders. It provides the services that our citizens want and expect, and it allows us to keep our tax rate at a reasonable rate. I would urge your consideration. I would urge your support, and I thank you so much. thank you. Beth gulo.

>> Good evening, everyone, my name is beth gilot. I am architect, principle and owner of gfc architects, local firm, been in austin for 34 years. I just have a few quick points. We're here in support for the incentive for visa. One of the points we really do support austin chamber and their pursuit in enriching our city and region. We support their efforts in pursuing high quality businesses for expanding into our city. They bring revenue and jobs to our local economy. We're working on projects all over texas and we do meet with economic development folks and we do know the things that they offer, and so often to be able to recruit these types of businesses, understand that there are incentives we need to put forward to be successful. I'm also here to express to visa that we are a strong united community, that we want to band together and we

really want to get something done, that we're here to support not only with our dollars, our time and our intellect, that we put all those things forward to pursue our -- to pursue our efforts. The last point is gcs architects are a firm that's involved in our community and I'm here to speak for the voices of our staff and in support of the incentives. Thank you very much. thank you. Tom stacy I believe left. Tim taylor I believe left. Neil cochran?

>> Good evening, my name is neil cochran. I represent the texas veteran commission. Thank you for the opportunity to speak. There are approximately 300 unemployed veterans with various it skills. Some of these veterans will make excellent candidates for a company like visa. I've had the opportunity to meet with the visa representatives and share this information on our veterans and the resources. The texas veteran commission has a proven track record of working with our veterans and developing skills needed to be successful in the next economy. Please consider the texas veteran commission as a resource building strong employees and job opportunities for these jobs you folks will help create. Thank you for your time. thank you. Hector aguilar.

>> Good evening, my name is hector aguilar. I'm with austin community college. Thank you very much for allowing me to speak this evening. At austin community college we've had a number of conversations with the company, and we are prepared to do different types of training customized. We've talked about the skills development fund grant that was referred to earlier, and we basically worked t texas workforce commission, capital area and we develop the curriculum that the company wants, the topics that they want on the days and times that they want. We do this for many different companies. This is at any given time of the year we're working with many different companies. In addition to that we have a very strong commuter science department, for example, that -- could provide many employees for this company as we do for others. We also have numerous it courses that we offer through continuing education. We had council member morrison earlier mentioned people that have a four-year degree in liberal arts or some area like that. We have certifications in cisco, oracle, microsoft, webmaster, a number of areas we can help people like that get a job at companies like this. Likewise, previous -- it was mentioned right now that for veterans we do a lot of work with veterans, and veterans that may have only a high school diploma. They certainly have multiple degrees. We can help them with specific training to be able to get jobs like this. Thank you. thank you. Nevel letsrick? Not here. Christopher lapour? Paul biewry? Paul biewry? Okay. That's all that we -- speakers I have signed up wishing to speak. Is there anyone who did wish to speak and I have not called your name? All right. Entertain a motion on item 114.

>> [Inaudible] council member martinez moves approval of the ordinance on all three readings.

>> Second. second by council member spelman. All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. guernsey, you're at bat. 86.

>> Thank you, mayor and council. Greg guernsey planning development and review department. Item 86 is a zoning case c14-2012-007-0230 the property located at 207 east 53rd street. This is a rezoning request to community commercial, neighborhood plan or gr-np combining district

zoning. Council approved it on first reading on a vote of 6-0 of the planning commission's recommendation, and the reason for the meeting tonight, this request is only for second reading, the applicant would like the council to consider removing the prohibition on outdoor amplified sound that was added by the planning commission. The applicant and the agent, they were here when this request was made by the planning commission that prohibited the outdoor amplified sound but they weren't aware that was taking place during the first reading and it went on consent. So they would like opportunity to speak to you about this. The outdoor amplification ordinance does require notice. There is an appeal process. What I understand is that they may not necessarily do this initially but what like the opportunity to have this considered in the future. As I mentioned before, this is a request to the gr-co-np zoning. It does have a list of prohibited uses that you approved on first reading. There are approximately ten of those. There's a 2,000 triple -- also, if the zoning is granted there's a right away dedication 40 feet from the existing centerline. Rick Vasquez is here tonight to speak on behalf of the applicant regarding their request to remove that one condition. If you have any questions I'll be happy to answer them at this time.

>> Morrison: question. public hearing is closed.

>> Public hearing is closed. and it's ready for second reading only?

>> And we bring it for second reading only for you to consider the applicant's request to remove a single provision. council member morrison. could you talk a little bit, please, greg, about the planning commission discussion about including a prohibition about -- of outdoor amplified sound?

>> It's my understanding -- and was there testimony about that?

>> I believe there was some discussion about that and that there were some neighborhood representatives that had concerns over gathering -- the outdoor amplified sound. The property as it's located does back up to a residential area, with sf-3 zoning currently to the south. And to the southeast and the southwest in the immediate area. and so there were neighborhood representatives there that were requesting that in the planning commission --

>> I think they raised it as a concern to the planning commission.

>> Morrison: okay.

>> I don't know the exact statements that were made, but I think that was discussed. and then did we pass this on consent? We passed planning commission on consent for first reading and closed the public hearing?

>> Planning commission voted on that position in a 9-0 vote and it was approved by the council. I can't remember off the top of my head which one of you was absent but I think it was a 6-0 with mayor pro tem off the dais. but was it on consent?

>> It was on consent. so I guess the concern I have is that what we considered, and there was no discussion about potentially removing this before we closed the public hearing, so I'm going to have a real hard problem considering this request to remove the prohibition without getting to hear the arguments from the neighborhood that led the planning commission to vote for that prohibition 9-0. Is there anything you can do to help me out in terms of how we might be able to manage this?

>> I did speak to the case manager if they could identify those that actually spoke to the item. /He wasn't able to provide me the information. Those individuals weren't going to be present tonight, of those that speak against -- or spoke to this at the commission. So no, I don't have anybody here. vasquez has spoken to any of the neighbors out there that may have a concern. Short of delaying this a week or something and going to the neighborhood organization I don't know what else that we could do.

>> Morrison: okay. I guess if people have stayed around this long to testify on this, I'd be glad, personally, to hear that, but I'm going to have a real problem moving forward with any decision without hearing from the other side. And we -- since it wasn't just -- just to reiterate, since it wasn't on the table as an issue at first reading we just closed the public hearing and passed it on consent. Okay. Thank you, greg. are you the applicant?

>> The agent of the applicant. the agent. So the public hearing is closed but I'll just ask you to explain your position on this request. mayor, council. The main reason why I think we're here -- or the reason why we are here is that, yes, planning commission had approved the zoning change with the friendly amendment, and the language that they used that night was limiting outdoor music, similar to the previous case, they had a case just prior to that with the same conditions where we don't intend to have live outdoor music but we would like ambient, which -- you would like what?

>> Sorry? you would like what? You said you don't want outdoor music but --

>> no live outdoor music but we would like ambient music, just background music. Ambient t. Okay.

>> Yes, sir, ambient. And the case prior to ours had the same discussion. The planning council -- planning commission did approve their case with limiting -- or prohibiting live outdoor music but allowing background music at a lower decibel level of 75 from the allowed 85. So when we went to planning commission, we thought we were getting the same deal, and so we went ahead with the recommendation, and then when we got the language back I talked to the case manager and we were set to speak at first reading, but we missed our opportunity. We were outside speaking on 00 it came and went and we got approved and we kind of were in a panic, and city staff guernsey recommended we come and talk to you guys for a second reading. So that's kind of why we're here. so your request is to allow ambient music.

>> Only.

>> Mayor leffingwell: only.

>> Prohibiting live outdoor -- is there a legal definition for ambient because -- to me that could be either one.

>> I mean, background music. I don't know if there's a specification -- backgr backgr ound --

>> live or -- could guernsey to clarify that for me?

>> Our noise -- the sound ordinance under 9-2 doesn't really make a distinction between live amplified sound versus background music. You had the occasion to talk about little woodrow's on the drag. They didn't necessarily have an instance where they were actually having live drags, that they would just have basically a speaker in the back that played background music off the radio while people were eating and i think that's exactly what rick is requesting. They worked with our sound ordinance and we worked with the taos cooperative next door, through an appeal -- there was an appeal that arose from that case but that was the case that I can think of that came most recently to you where they weren't asking to have live bands so much as it was an issue of mainly having speakers in the back that were playing most of the time. can i ask you, what is the difference between what he's asking for and what we passed on first reading? Just --

>> on first reading he would not be able to have amplified sound outside. he wouldn't be allowed to have outdoor music.

>> He wouldn't be allowed to play back tapes, cds, background music through a speaker that projects outside, because it would be amplified. so when the applicant says he doesn't want live music, he just wants taped or unlive music, dead music --

>> you wouldn't have a live band -- it doesn't make any difference in the code.

>> Our ordinance would not make that distinction.

>> Mayor leffingwell: okay. Council member morrison. greg, do you know if there are any other outdoor amplified sound permits along east 51st street around there? I'm trying to envision that. It's about the -- cross streets about avenue g, and my guess is that there probably are not. There might --

>> I'm not aware of others, but we could certainly look at that. This is a restaurant venue. We're not zoning this to permit a cocktail lounge, basically a bar on this property. They would only be allowed to have a restaurant. But we have a lot of restaurants that do have -- I know, but i guess my main concern is entering into the realm of, you know, outdoor amplified sound backing up to a -- you know, one of our very special central city neighborhoods that can significantly change the quality of life for people that live nearby. So I'm very concerned about that.

>> The only thing I could do is if -- whatever action you take today, I could come back prior to being considered for third reading either way and give you that information. and have that information? You could just -- again on second reading consider the -- you know, have the opportunity to hear from other neighbors, if you could figure out who those were that were concerned --

>> staff could contact the registered neighborhood organizations that are in this area and the contact team and see -- and make them aware and see what their concerns might be. I can have the case manager do that. and then we can also get with our music division or whatever and figure out -- you could help us figure out if there are permits for outdoor amplified sound in the area.

>> You could look a thousand feet on either side, and we could do that as well. that would be helpful. Do we have anyone signed up besides -- the public hearing is closed. I guess I would like to -- I hope this isn't jumping ahead of other folks, but I would like to go ahead and approve planning commission recommendation on second reading with the understanding that we're going to be able to have some more input to consider your request.

>> That would be wonderful.

>> -- In a more -- in a bigger context, and more informed -- motion by council member morrison to approve on second reading only, and I would suggest maybe a little bit of time on this to maybe bring it back on third on january 17. Second by council member martinez. Council member tovo? yeah, I just want to clarify. You're moving planning commission recommendation with the condition in place, right? all in favor say aye.

>> Aye.

>> Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. Item 100.

>> Thank you council. Item 100 is case c14-2012-0032 for the property located at 2905 del curto road and 1814 lightsey road. This is a zoning change request to townhouse condominium conditional overlay, co combining district zoning. The planning commission recommendation was to grant the town howl condominium conditional overlay sf-6-co zoning. The property is located it the northeast corner of del curto and lightsey and is about 4.7 acres in size. It has been partially developed in the past with a single-family residence and was composed of three parcels. There is a valid petition that's been filed by the adjacent property owners in opposition to the rezoning request and that stands at 15%, so we do have a valid petition. There is an ordinance that has been prepared, so there's a possibility that you could take three readings on consideration today. The opposition that was expressed by some of the neighbors dealt with vehicular safety because of some sight distance issues, particularly on lightsey, and that bend that you see kind of in the lower left-hand corner where the road bends. There's also some drainage issues. I know that council has received letters in the past of other parts of del curto and I do have an engineer tonight that can address some of the drainage issues there. They raised issues about infrastructure and compatibility with regards to really the number of units that were -- that would be allowed on the property. The owner is proposing a townhouse condominium type development and currently has a subdivision in process and a site plan in process that may show 42 or 40 units on the property. The staff didn't make a recommendation to support the sf-6-co zoning on the property with a unit limit of 36 units, an impervious cover limitation of 50%, which is about 5% less than what's currently permitted in the sf-6 zoning, to prohibit access on lightsey road, and to limit the access to a single driveway access on del curto. Del curto again being the road to the west of the site, and then limit the number of trips on the property to 232 vehicle trips per day.

The planning commission's recommendation, they did adopt the staff recommendation but changed the unit limit and dropped it by 2. So staff recommended 36. The planning commission recommended a staff recommendation with 34. The applicant is requesting somewhere between 42 and 40, and the neighborhood came back and said that they still have a lot of concerns but they would accept somewhere between 28 and 32 units. So that would bring it closer -- they still have infrastructure questions, compatibility issues with regards to the development as far as the density, concerns about drainage, but their number is less. The adjacent properties that surround the site are mostly sf-3, although there are some sf-6 and sf-5 zoning further to the north. Most of the development in the area is limited to single-family. So in summary, the applicant is really -- has really requested the sf-6-co, i think is searching somewhere between 42 and 40 units. Staff recommended 36 units. The commission recommended 34 units, and the neighborhood would go somewhere between 28 and 32 units. They have a valid petition and they still have concerns about drainage, traffic and some infrastructure issues. I'll pause now, if you have any questions, subject to compatibility. The applicant is here and i believe there are some neighbors having waiting all day today. Questi questi ons for staff? Is the applicant here? A are you ryan deepenbrock? Anthony ciela and michael potten -- you have 11 minutes.

>> Could you queue up the item 100? I think I called it heights slides, not this one. I think I called it lightsey -- city council slides item 100. Good evening, mayor and council members. I appreciate the time tonight. My name is ryan deepenbrock with psw. As soon as we get these slides up I thought I'd take just a minute to show you three or four of our residential communities that have been built over the last three years in the zilker galindo and tarrytown neighborhoods, just to get a sense. In fact, in many of our upcoming communities around town we're using some of the same homes and floor plans as you see here. Very proud of these and they turned out very well. And they've just -- sorry. That's better, huh? So I would just give a little basis for our development this evening, if I can get this to work. There you go. So those -- those photos came from the first three communities be up on the top of the list. The next three are in permitting. We are preselling those homes in those communities, all are around 100 to 125 homes in those six communities, averaging about nine homes per acre, something we've kind of specialized in over the last few years. And so that was our basis and thought process for the development tonight. I think everybody knows where it is at this point. And so the current zoning would allow a subdivision -- this is a subdivision we have presented to staff for review. I think it's been in review for a handful of months now. We've received comments two or three times and we're getting closer. 4 homes per acre with city detention and water quality ponds on the site as well, and a new public street, and a private street -- or a private kind of alley-type access. This results in a decent development, but it lives a little bit more condo-like and dense, but it's something that's feasible, and this is what we, you know, understood and knew we had when we purchased the property about a year ago now. At that time we were targeting the nine homes per acre, and out of 42-home plan, you can see this one is dated january. At this point we had already had a handful of meetings with the neighborhood and other interested parties, and so we started -- we started there, started gathering information and looking at possibilities. This one, as you can tell, exited and entered off of lightsey. That was something we looked at up front and realized maybe it wasn't the best spot. One of the conditions that greg read earlier, and so we got something a little better using del curto, a safer spot to come in and out. We looked at and proposed 40 homes, which is what the zoning case is originally requesting and filed that, and that's about 8 1/2 homes per acre. Continued to talk with interested parties, neighborhood, city staff and some

of your guys' office zoning aides and planning commission as well, and moved to a plan of 38 homes, which is about eight homes per acre. It would be roughly equivalent to quarter-acre lots with two homes or two duplexes on them you believe a typical sf-3 layout. And so this is looking pretty good. The stacy and better are getting the homes more in line with what the neighborhood was suggesting they'd like to see in their neighborhood and live around, so this was a few months ago we presented this to them. And then this week we sat down with them and said, let us look for more opportunities to get closer to something that you guys would like afnl at the end of the meeting tuesday evening, which is running as late as tonight, we found one or two opportunities and we had a really good sense in the room about this is something that everybody can live with. Maybe not everybody, but a high percentage of folks. And so this puts us at 37 homes. This is kind of to our bottom line on what's feasible, less than eight homes an acre. Spacing is real nice. We believe frankly less dense, more open space than many of the other communities that we've built around town that have been very well received. So that's kind of the plan that we have right now. There will be some detailing, tweaking. All those homes are -- our architect is here tonight who is part of psw. All those homes he has pulled from other communities that we've built and so we know what those homes are. But we'll tweak them. We'll detail them out. They'll look a little different. You notice on my first slide none of the communities even have the same architecture style. So we'll make them, you know, kind of fit the area, but this allows us to know exactly bedrooms and garage spots and things like that that we're proposing. Some of the benefits, true detached homes, more suitable for a wide range of buyers, especially families. Have had great success in our zilker neighborhood, zilker community, which is actually here in the picture, with all the seouler, all the homes except for one have solar. We had 50% of the homeowners having children, families, which is a pretty high ratio for the zilker neighborhood. And then I just mentioned some of the other items that are conditions in our zoning. Here is a four-star, we're dedicated to solar. The next hundred homes we have going up right now all have solar and we would expect this community, where possible, there are a lot of trees, but outside of that all those homes have solar as well. 25-Foot compatibility setbacks, and a slight reduction in impervious coverage. It is part of it, and that's allowed us to work with some of the surrounding neighbors to make sure the project looks and reacts to their homes the way they would like it to, fencing and facade of the homes and things like that. 15 is the opposed valid petition. Some of the neighbors around us have put together a petition of support, which currently today stands at 50%. If you take out the nonapplicable and just say against or in support, you kind of have a one-third to two third percentage right now. I'll show you this on a map in a minute. Of the 29%, one -- the single largest signer of the valid petition is competing developer, austin infill developers is there. Great guy but he doesn't live there. The property is vacant. Just happens to have the largest property. And so if he were not on the petition or were to take his name off the petition, then we'd be below 20% and by taking him out, putting him in the nonapplicable category, we would have over 71% support. And I think that's important to note that we've worked hard and I think folks are recognizing some of the be benefits of our type of development. There's the map of it with our property in the middle, just looking at the perimeter, the adjacent owners, so it takes out a little bit of the petition area that it's not adjacent to our site but it's in the area, and we have about 75% supporting us, not counting the park, of course. And one other thing to note here is it is the tract that shows the rs in red. Those rs, two pieces of property owned by somebody who has not been involved in this process yet. We haven't had a chance to get to know her and deliver the information to her. She -- and we've had numerous meetings with -- open meetings with many, many neighbors, somewhere in the 10 to 15 range. She just hasn't been able to join in. So

she may or may not have a different perspective on it if she did get to sit down with all of us, like the folks in blue have been able to do. So that's are the things i wanted to point out about our development, and field any questions, if you have some. Questi questi ons for the applicant. Council member morrison. I just want to make sure I get real crystal clear, what is it about the sf-6 zoning that you would need over the sf-3 to do the project that you've envisioned? One of the things i understand is the additional impervious cover goes from 45 to 50%. Can you describe the rest of it?

>> Sure. Currently the impervious coverage on our two plans is equivalent, but we would like to make sure we don't overpromise, and so we've asked for a 50% max. Currently they are within -- in fact, I think actually our site plan might be a little bit less. by your two plans you mean your sf-3 plan or your sf-6 plan.

>> Exactly. Especially with 37 homes. So -- well, having a little bit extra impervious cover makes sure we have parking and things like that would be helpful. I'm not sure that's a driving factor. We just aren't comfortable overpromising and picking too low of a number. So that's the impervious cover. The biggest benefit of single-family 6 is for us -- for us is having a blank open canvas to work with, being able to place the 37 homes where they're best to be placed. It allows us to save a few more protected trees. It does not require public streets, which are wider and take more impervious coverage. It allows for better managed on-site water quality and drainage controls because they don't have to come in the form of a concrete public detention pond, we can use a variety of controls on-site throughout the site as opposed to clustered all in one area. Those are the biggest benefits for us. The biggest benefit for the neighbors is the 25-foot compatibility setback all the way around, which single-family 3 does not come with. and the bottom line is with sf-6 you're not limited to putting one single-family or duplex on 5750. You could put a whole bunch on 5750 and fewer somewhere else.

>> Right, move them around better. All the lot lines. [inaudible] basically.

>> Yes, all the lot lines of a single-family 3 subdivision cause setbacks throughout the property and provide more restriction within a building envelope. and then if you're sf-6 do you have to do a subdivision or is it just one big-ol' plat?

>> It's one site plan. one site plan, right, because you don't he the lines of the lots.

>> Right, and for information we don't need to plat this property. It is legally platted so it's just a site plan.

>> Morrison: got it. Okay. Thank you, that's helpful. other speakers in favor, christa unshied ramirez. You have three minutes.

>> Mayor, city council members, thank you very much. My name is christaumshied ramirez and I and my husband and my 3-year-old daughter live on the property directly, I guess to your right of the subject property. Could you bring up image no. 2, please?

>> What?

>> Image no. 2. No, it's in the ones i submitted. While he's trying to find those, I'm sorry, this case is not simply about how many residences will be built here. It's primarily about the types of residences that will be built here. As you've heard there's a subdivision plan for duplex units already in place. It's in its third review with the city. I decided that after trying to be the liaison between the neighborhood association, which I've been a member since it began, and the developer, that we weren't quite bridging that gap. And the developer has said on several occasions that the subdivision plan of duplex lots is the backup plan if he does not get the zoning. So I went ahead and went and found support around the neighborhood. Some people did not know about the subdivision duplex lots plan that was in its third review, and the neighborhood primarily -- more than 50% of the neighborhood in the buffer areas defined is in support of the zoning change, and that is what my petition that I brought forward says. So there are many benefits to having the sf-6-co plan in place, primarily because it will be detached homes. There are no children in our neighborhood. There's no children for my 3-year-old to play with. We're in the zilker school district. We don't believe duplexes will add anything. If you look on this map, look at all the duplexes already there in all of those cul-de-sacs in our neighborhood. We like having a healthy mix of different housing opportunities, but adding more duplex units is not going to be beneficial to this neighborhood. There are already plenty of duplex units there. We could also benefit from fencing, lighting, landscaping, pedestrian sidewalk, a bike path to the park that we don't have that we can't access. It's a very busy street and no safe way to get there. These things can all be achieved with the sf-6, detached homes. It's also better for the neighborhood because they won't negatively impact home values. Ryan already mentioned the setback difference from 5-foot on sf-3 to 25-foot with sf-6, detached homes historically are more owner occupied rather than duplexes. And fewer overall residences would provide less strain on neighborhood infrastructure. So the petition and the position of the neighborhood association has about 29%, but it does not reflect the preferences of the landowners, especially those of us who are directly next door to this property. Imagine two football fields of it. Thank you very much. thank you. Go to speakers signed up against. Brian king. Donating time, steven lacquer. Steven lacquer is not here. Jeff jack?

>> He left [inaudible]

>> mayor leffingwell: okay. Linda thompson is here. She's on your list. I'm getting to her. Bruce evans? Is here. Jeff jack is not here. So you have --

>> nine will do. nine minutes.

>> I can probably do it in six. Thank you, mayor, mayor pro tem and council. My name is brian king, i live at 1809 lightsey road directly across the street from this property and I'm a member of the south lamar neighborhood association. Give you an overview of the location of the property, 1814, it's on a major transit corridor that dissects our neighborhood, connection from south lamar to ben white boulevard and it's heavily trafficked. It's a country two-lane road, has no curb, no gutter, no sidewalks. Here's an overhead view of where it's located. That's what we call dead man's curb because that long driveway across the street from the property is where i find cars upside down in my driveway on about a biennial basis. There's the property again at -- it formerly was two parcels, and it had three single-family homes on it. All of the properties in this area across the street are two, four, five acres. It's very -- it's zoned sf-3 but it's really more like

sf-1 or rr. It's surrounded by large lots with single-family homes per lot. As I mentioned, the lots are in 1, 2 and 4 acres all the way around it. The lot to the north of it is a shotgun acre. It's the major corridor collector, as that map shows that I showed you earlier. It's about a mile and a half. The summer trip count, which was done while school was out, already exceeds the desirable level of this roadway per the ldc. A count was taken with schools out of session so it really should be adjusted about 20% because that is the bus route. My kiddo had to cross the street and they had to put in a special bus stop just so he could get to it safely because where they had it he had to walk down a hill. The sight lines are just horrendous there. The traffic counts, it's over there for the pavement length we're dealing with. The traffic study there shows the daily counts were 24, 28, and those are unadjusted. So they really should be much higher than that. This project, the more units we put there the more daily trips it presents, the more traffic problems we have. Again, there's another shot at a 45 of the property. It's just to the north of that red dot, with a in it. The neighborhood's long-standing position has been to work with developers to afford them flexibility in designing a property and do an upzone to do that. In this case -- usually it's on a property -- the one that he was referencing, the flow may drop off the valid petition, we worked with him and worked a conditional overlay for a number of units there and that's why he's supporting the neighborhood in our valid petition, because we worked at him to give him flexibility on -- he had a shotgun acre along 700 long, 100-foot wide one. This is fairly rectangular but we're will to work with him because it has topography issues, tear haj trees -- heritage trees, sight line issues. But end of the day up zoning should be limited to yield the same capacity of the existing zoning and particularly the impervious cover because I think you've heard about the problems we've been having on del curto with the property that went in there that flooded the house across the street five times since the first of the year. Drainage is a real problem in our neighborhood, so we are very keenly aware of limiting the impervious cover and trying to hold it to 45. The up zoning again should be used to work the natural elements on that property and we want to go there. The heritage trees, topography, the ingress and egress, sight lines. It's -- it's a rough corner, a very rough corner. We call it dead man's curve, as I mentioned. After we looked at all of those concerns and knowing the property, we decided that a range of acceptable development, and there might be about 28 to 32 units. In the spirit of compromise, after we had the pc recommendation, staff was at 36, we were at upper end, 32. Pc with in and said how about 34. We've gone back and offered 34 at 45% impervious cover. The valid petition is in place for 32 units, but as another olive branch I think we can go to another unit and go up to 35 and remove that valid petition and take this thing on consent, if we can -- if we can look at it at 35 units. Flush so we've gone from 28 to 32 to 34. Now we're at 35. That's on the table. I can't promise you that because I have to go back to the members that signed that petition to get them to drop off, but I've gotten reasonable assurance from most of them that that can happen.

[One moment, please, for] ecl)

>> if you saw the map, we are posed to go all around there with large parcels will that have a cumulative or additive effect if we have everyone of them to the max so we are trying to hold them down as much as we can but still be reasonable. We think 35 units is a very reasonable compromise. We met with applicant on numerous occasions and had numerous meetings to try to work out different scenarios and we look at 35 as pretty much a good number.

>> Spelman: You are one of the signers of the valid petition?

>> Yes, sir.

>> Spelman: And if it went to 35, you would take your name off so it wouldn't be valid anymore? --

>> I have reasonable assurance from enough people if we go to 35, we can drop the valid petition but i have to go back and say we have a 35 deal. We tried to do that tuesday night with the last meeting with the developer but we couldn't come to an agreement so here we are.

>> Spelman: Couldn't come to an agreement, meaning he wouldn't accept 35, he needed more.

>> He wouldn't go for 35 so we are here.

>> Spelman: Thank you.

>> Thank you.

>> Mayor leffingwell: Before you leave, what would be the normal zoning entitlement? How many units.

>> I am sorry, I am half the deaf and don't know --

>> mayor leffingwell: Without any restrictions, what would be the normal entitlement? Would there be number of units or is it the impervious cover limitation?

>> It is both. They go hand in hand. You want to drop impervious and traffic. Drainage is impervious and the units are the traffic.

>> Mayor leffingwell: okay. Council member morrison -- i was going to wait and ask guernsey, too, but council member morrison.

>> Morrison: Thanks. Brian, I do have a question for you. I do want to make a comment that you started at 28. You are now at 35. If you consider that you started at 38, you are now at 35. That is already a 25% increase so it is sort of when you say no. You mentioned heritage trees and sometimes we run into the problems where we sort of don't think about the heritage trees. We provide an entitlement to somebody and then they come back and say I can't take advantage of the entitlement unless I get rid of these heritage trees. Have you looked at the placement of heritage trees and integrated into that into your thinking about the number specifically?

>> Well, I don't think we are site planners. Relooked at number of heritage trees and how they showed up on the property. I know that property like the back of my hand. It is across the street from me. I know it will be difficult to work around those and the less units you have, the more tree protection you have. Tree protection traffic --

>> Morrison: How many heritage trees on the property, do you know offhand? How many heritage trees?

>> Fourteen. Are there 14? Thirteen.

>> Morrison: A good number?

>> Yes.

>> Morrison: In sf6 there is a movement where they can move the property, the units around so they --

>> exactly. All of us in the neighborhood are in favor of the fs6. None of us are leading toward the subdivision which might be single family attach, which might be duplex. We aren't looking toward that one. We always favored it so we can't agree on the numbers. The developers said if can't go over there we will create this monster over here so let's work together to see what we can do. That's where we are, 35.

>> Morrison: Thank you.

>> Thank you. bob thompson. Is hillary dyer here? Okay. You have 6 minutes.

>> Mayor and council, city council I am bob thompson with our neighborhood association. I am passing around a 7 page hand out. I won't have time to go through it so I will ask you to look through it when you can. This case is the same as most zoning cases in where the neighborhood and the developer would prefer to reach a negotiated agreement for the fs6 result. The neighborhood is unanimously in favor of having the lowest density development that we can get. The signers of the 50% writes of support, as well as as the 29% opposition, all would prefer the lowest density development that we could get. It's just that the signers of the 50% are quite concerned about the alternative of the duplex subdivision if we don't reach an agreement. The reason that the subdivision alternative is relevant is that we had this precedent that we are trying to maintain of not permitting up zoning unless we can achieve densities at or below what could be eventually arrived at under a subdivision. To answer mayor leffingwell's question, the raw density numbers are especially the same for sf3 and sf6, they would allow something like 12 and fraction units per acre which would be in the 40 some odd range but it is also true that the actual achievable number in the subdivision are much less than raw density number because of the site plan restrictions. In this case, also the drainage restrictions and traffic and heritage trees. And so there is a parallel case before -- for the subdivision that's proceeded. Unfortunately, it's not nearly so far along, but if we could get recommendation from subdivision staff as to what would actually be achievable in the end after compliance with all of the site plan restrictions, that would be very informative to both the neighborhood and to psw and would help us probably come to a conclusion on density. But in the meanwhile, in the remainder of my time, i would like to outline some of the major problems that we think would restrict the number of units achievable under a subdivision very much below the 44 number that was first proposed. And the challenges that are unique to this site are primarily the high traffic and very poor site lines, which restrict the access and so forth, and the drainage issues. I am going to spend the bulk of my remaining time on the drainage issues. The very last bullet on the first page refers to square footage questions which are still open on the subdivision in the l page -- and the last page of the handout provides some of the questions that the subdivision staff haven't yet been able to answer for us and there are also

drainage questions that the subdivision staff haven't yet been able to answer for us. If you could turn to exhibit a, the slide that I gave you, this shows the topo graphic map of the site. It's the second page in the handout. You can see the extreme hilliness. The elevation drains from 660 feet in the lightsey south center of the tract to elevations below 620 feet, about 615 feet in the northeast and northwest corners. That's about almost a 50-foot drop, like a five story building, so it is extremely hilly. Because of that, the drainage is going to be fierce when you add all of the impervious cover that this development will require. Presently the tract has let or somewhere around 5% impervious cover and that would be joining to 45 percent at least, and because of of all of that, these are one foot contour lines. You can see that the east half of the track drains east. The west half drains west. There is no bar ditch along the del curto. If the drainage is not drained and runs into the del curto, it takes an inch or two to hydroplane cars. You could be killing people. That's why the neighborhood is quite concerned about drainage and in addition, we have had flooding in the neighborhood. We think if a subdivision plan was completed with a required water -- flood water detention, a number of homes would be lost and the actual achievable density will turn out to be in the mid 30s. The subdivision staff hasn't reached that point in their analysis yet, but that's why we have been reluctant to go up -- much below the low 30s in the densities that we were willing to grant. If you go on to exhibit b, that line running up through the middle is the ridge line of the property. This is the proposed layout of the subdivision that i have shown up there so far the drainage plan that has been proposed with the 44 unit plan shows single water detention pond along the west. It shows no other water detention ponds on the property. Miest police is that there might be as much as 100,000 cubic foot of water detention required by the city drainage policy in the event of 25 or 100 year floods. I can answer that in a question time if somebody is interested but this pond is grossly inadequate. It shows 8600.

[Buzzer alarming] is my six minutes up? six minutes up.

>> And so I will -- on page 4 and 5 of the handout are a list of questions we submitted to subdivision staff about the drainage.

>> Mayor leffingwell: okay.

>> And they haven't responded to that but -- thank you.

>> These are the open questions which stood with them. we have three minutes for the applicant to respond. Rebuttal time.

>> Thank you, mayor. I will do my best in 3 minutes. First I would like to point out that we do have other subdivisions that are almost identical to this, one in the bouldin neighborhood that comes to mind as the density of the 44 home subdivision I had on if third slide, similar topography, putting in a public street, not all that different. I wouldn't consider that a king referred to our backup plan. Our backup plan is definitely not a monster, either. It is a decent backup plan. We are going to look at 45 to 50% impervious cover this week. We will hopefully be back next week if we don't pass in all three readings today. I can look at that because i know we are in -- we just don't want to overpromise. It is the worst thing I can do so I may come back and say 50 is what we need but we will look at that. We have been willing to look at the numbers, left and right. We spent a lot of time on tuesday night and came up with a couple ways

to improve it, but we can't just pick a number out of the air, 28 is a number out of the air. Thirty-two, the same thing. We are looking at our plan. We are looking at the separation of the houses, the backyards, the front yards, all of that stuff. And looking for what is the best plan. Financially, 35 is not an option for us. I wish it was. We looked at that. We talked about that with the neighborhood, where we could look at numbers, move things around, but it's -- we just can't get there. That's -- that's just something we can't do. We are saving 100% of the heritage trees. Our target was 50% of the protected trees. We've got it at 70 on the plan right now. Our architect is pretty good. He's been working that for a number of months. We do have multiple in-house architects for that reason, because we want to control this. A lot of the drainage problems we have seen with sf3 subdivisions like the one on del curto occur because you have a developer who sells the subdivision to a builder, like in the case of milestone down the street. That's not the way we operate. We are the developer and the builder in one. Our highland park engineers evolve together from the beginning to end. Our sales team is also involved from beginning to end because they want to sell a good product. We don't want to create drainage problems at all. I think we all agree that the site plan is one of the best mechanisms to handle a lot of these concerns. So it's quite a few other points I can make, but i imagine we are running out of time, so I can commit in the next week before the 13th to look at the impervious cover and see if -- I don't know if a percent or two could help, but it could be there. I can't -- I can't do --

[buzzer alarming] -- a lower number of homes without it just killing the project. Thanks. thank you. I have got a question for mr. guernsey. With a real quick answer question, a real quick answer. So the valid petition is applicable to anything over 32 units. Is that correct?

>> Guernsey: That's correct. as it stands right now.

>> Guernsey: As it stands right now.

>> Mayor leffingwell: okay. Anything else? Floor is open for a motion. On item 100. Council member tovo.

>> Tovo: So I am going to move approval of the rezoning with a 35 dwelling unit cap. Thank you, and 45% impervious cover. so what is the -- that's not the planning commission. Everything else is the same as the planning commission recommendation except for the 35 unit and the 45%? That's correct?

>> Tovo: Yes.

>> Mayor leffingwell: okay. Motion on first reading or --

>> Tovo: Yes. First reading.

>> Mayor leffingwell: okay. Motion closed to public hearing, approve on first reading by council member tovo. Is there a second? Second by council member morrison. Discussion?

>> Spelman: Mayor.

>> Mayor leffingwell: Council member spelman.

>> Spelman: Since greg is conveniently close to the microphone. Let me ask him this question. The difference between what is the sample now and staff recommendation is a unit and 5%, is that right?

>> Guernsey: That's correct.

>> Spelman: Okay. Is the developer close-by here? The two people most likely to vote for a valid petition and against you are okay with 35 units and 45%. We can get you 35 units and 45% and nobody is going to fight you. Do you still want to fight for that one more unit?

>> Of course I don't, but I -- I wish you didn't call me back up here. I can't -- this is --

>> Spelman: You can't do it?

>> This isn't a fight. This is our business. I can't do anything about 35 or 36. I really can't.

>> Spelman: The comeback that I am going to hear from the neighborhood or from somebody who is friendly with the neighborhood is that it's not our fault that you pay too much for the land. How would you counter that?

>> The land was on the market at higher price for about 12 months, starting back in 2010. We purchased it about a year ago. We negotiated for a long, long time. We got the price down a lot. We've worked hard. We are already below our threshold with 37 homes. We've talked about the home prices with all the folks who have been involved here and I don't think any of them would say that they are low. I mean, I -- I think we are stuck. I am doing -- we are doing our best. I mean, we have spent a lot of time and the two folks who joined me here are the other two members of my company that r company. I wouldn't -- I mean, it sounds petty, 35, 36, 37, i can't -- I can't do anything about it. I mean, it -- it's where we are.

>> Spelman: Staff recommendation is 36 units and 50%. And I think I heard you say you can't make it work for less than 37, so with the staff recommendation, you couldn't make it work with the staff recommendation?

>> Well, on tuesday we talked quite a bit. Identified two or three locations on the property of potentially taking a home away. One of the big issues we have at this point is we've already reduced the smaller sized and more affordable homes as much as possible. They are already a lower portion of the mix than any other other communities we have built out. The only way to everyone come close financially to taking one more home out is to take a small home out. That puts us even further below the typical mix when we are already well below it. And you may not believe me, but we really are already below our financial threshold and hurdle from going from 38 to 37. So each one just makes it so much tougher. I know you guys don't, you know -- not -- that's not your concern at all. But, you know, we are working hard. 8 homes per acre is not that dense in these neighborhoods. So.

>> Spelman: I don't believe you mentioned it before, sir, so this is a good time for you to mention it. What is the range of prices you expect to be selling these houses for?

>> We have the expectation that they will be 300s, 400s and maybe even some 500s.

>> Spelman: Thanks.

>> Mayor leffingwell: Motion on the table with a second by council member tovo. First reading. All those in favor, say " opposed say no. Passes on a vote of 7-0.

>> Guernsey: Mayor and council, I don't know if you wanted this to come back next week, but normally we would delay and we would do our normal thing unless you are asking us to bring it --

>> mayor leffingwell: January 17th or later would be fine.

>> Guernsey: Okay.

>> Mayor leffingwell: okay. We have got item 111.

>> Good evening, michael knox economic growth and economic services offices, 1111 is conduct a public hearing and consider an ordinance regarding the downtown apimprovement office. In 2012, council approved a 2013 and 14 budget plan for the district and also approved 2013 and assessment of 10-cents per evaluation and the proposed 2014 assessment rule. Still it requires a public hearing to consider the proposed assessments, approval of assessment race and proposed rule to be to property owners within the pid area to either assessments prior to this hearing. This hearing tonight will allow property owners can the challenge that pose assessments for individual properties. Following this, the council will look at approval for the 2013 assessment role and with the assessments. If there are any questions, I will be happy to answer them. If not, we are ready for the public hearing. is that considered to be the briefing for item 112, also?

>> Excuse me. are you briefing us for 111 and 112?

>> It is exactly the same. The downtown public improvement district. so we consider item 111 and 112 and then consider the item separately. Speakers, clay defoe, and the second speaker, ronnie reeferseed. These are all of the speakers we have. Council member martinez moves to close the public hearing and approve all three readings. Seconded by council member spelman. All those in favor, say " aye. This is item 111 we are talking about. Ple opposed say no, passes vote of 7-0. Item 112. Council member martinez moves close public hearing and approve on all three readings. Second by council member spelman. All those in favor, say " aye. Opposed say no. Passes on a vote of 7-0. I skipped item 110, so we are considering items 110 and for purposes of briefing and public hearing, items 110 and item 30 together and there are no citizens signed up.

>> Item 110 is related to item number 30. Item 110 is a chapter 26. It is a change in a use of a wildlife -- a scientific area. I am so used to saying park land, I had to make sure it said scientific area on that one, but it is a change of use and it's within what we know as cortania, which is the bcp place. We closed cortania back in 1993 and the legal fact finding for this change in a scientific area is that there is no other feasible and prudent alternative to the taking of the scientific area, which includes all planning to minimize harm to the area. thank you. And of course I have the same briefing yesterday -- i had the same briefing in the bccp meeting. conrad is here to answer any other questions you might have. I think I could simplify by saying this is necessary for emergency access to the cortana track.

>> That is correct, sir, and also I will add when we looked at the area, we had independent appraiser look at each of the easements, what their values were, to make sure we knew what the values are and there is about a 45,000-dollar benefit to the city, in addition to all of the public access and protection for fire and safety. thank you. I would also add it is recommended for approval by the bccp coordinating committee. Council member morrison.

>> Morrison: Thank you. And I guess I did have a change -- my staff looked into this and I know you provide some important information and the key here is that we are sort of -- item 30, if I am not incorrect, is -- we are going to be buying land, so we are sort of swapping similar land here?

>> I would say exchange.

>> Morrison: I am sorry, exchanging. We are paying. They are paying. Two different transactions.

>> It is.

>> Morrison: But we are exchanging land that will be -- some will no longer be protected and some will now be protected, but we are getting an easement out of it?

>> That's correct. And in 2005, there was a replat and we realized we were cut off the road that we had in existence. The value of just that easement was \$86,000. So there is a big benefit to this exchange.

>> Morrison: Great. If we have nobody signed for --

>> mayor leffingwell: Nobody signed up to speak. We will consider item number 30 first, which is not a public hearing anyway.

>> Morrison: Okay. I am happy to move approval.

>> Mayor leffingwell: Council member morrison moves to approval number 30. Seconds by council member martinez. All those in favor, say " aye. Opposed say no. Passes on a vote of 7-0. And number 110, public hearing, there are no speakers signed up. Council member morrison moves to close the public hearing and approve the resolution, seconded by council member martinez. All those in favor, say " aye. Opposed say no. Passes on a vote of 7-0.

>> Thank you very much. item 113.

>> Guernsey: Mayor and council member, planning and review development, stakeholders and the planning review department all agree to postponement of this item to january 17th.

>> Mayor leffingwell: Council member martinez moves to postpone this item until january 17th, second by council member spelman. All those in favor, say " aye. Opposed say no. Passes on a vote of 7-0. Which brings us to items 63 and 64. And I believe for purposes of hearing public comment and getting a briefing we can consider these items together. Correct me if I am wrong. So.

>> Good evening mayor and council, george adams with the planning and review department. I have a very brief presentation. I want to start with some background. This process began in november of 2010, when the council approved a resolution that authorized the city manager to negotiate and execute an interlocal agreement in the amount not to exceed 200,000 to partner in the texas facility commissions master planning effort. That interlocal agreement was not executed. Subsequent to that and during the intervening period, the texas facilities commission expanded -- requested that we look at expanding the scope of this study to -- to other state-owned properties within the city of austin. Those properties include the north austin complex, which is approximately located at 49th and lamar, the bull creek annex which is at bull creek road and 45th street, to be determined portion of camp mabry, south campus which is roughly at 41st and guadalupe which includes the austin state hospital, and the hobby building and parking garage at roughly fourth and lavaca downtown. More recently, on november 8, 2012, the council approved a resolution directing city manager to negotiate an ila to expand the city's participation to all six study areas. Council also provided direction to gather input on the community's objectives for the city's involvement in the study and to bring back a revised interlocal agreement for consideration on december 6, which brings us to tonight. Since that november 8th meeting, we have solicited public input through a number of means, including a meeting on november the 15th, with community representatives and a number of legislative aides. A large public meeting on november 29th attended by approximately 40 primarily representatives. And then most recently, a follow-up meeting on november 30th with aides from the local legislative delegation. The public input we received through this process had a number of themes and i sum -- I will summarize those briefly. Most of the comments fell into one of four categories: The first of which is that the scenarios developed during this process should be consistent with adopted city plans, that there should be a process to incorporate public participation studies, that city of austin development regulations should apply to the properties, and then we had a number of comments that also focused on the timing of the study, that it was premature to enter into this -- the study at this time for a variety of reasons. So following those public meetings, we have been working diligently to come up with a revised draft interlocal agreement. We have had a number of meetings with texas facilities commission staff to try to hammer out the details, and we have the draft ila before you -- the revised draft ila before you tonight. And with that, I am going to turn it over to assist tint city attorney, lee la fireside to provide more detail on interlocal agreement and I will be available for my questions.

>> Thank you, council members, city manager. My name is lee la fireside and I am here on behalf of the law department. We have worked very steadily in conversations and lie dogs with

the facilities commission to address the concerns that we heard as much as we could. I can't guarantee it's all in the draft interlocal agreement and I also need to make you aware that it is still a draft, although think we are very much closer to a final agreement, it is still not final. And there are still a couple of points that are under discussion. The things that we have achieved, I would say, the tfc has agreed to communicate more with the public and with legislators and the affected jurisdiction, which is us. The city has a process contained in the revised agreement to commune skate at various stages of the study with the public and also to bring back reports to council. We also have clarified -- i know there was some discussion about the \$200,000 that's in the agreement, and that is for the capitol area -- because that's what was reflected in the 2010 resolution, although there is a provision in the revised interlocal that makes it clear that if the texas facilities commission wanted to do additional studies, it would cost more money. Any of those requests would have to go to council if we are going to be asked to participate. Then there is also provisions in the revised agreement for the city to communicate to the texas facilities commission the requirements of not only imagine austin but the neighborhood plans, land development codes, the type of thing that we would communicate to them, that we feel is important and that the neighborhoods have felt is important and then also we would compare whatever the study results come out with the imagine austin and with our plans to be able to give that information to you and to the public. And so those are some of the changes that are in the draft interlocal agreement. We are still in discussion on a few points and I know their general counsel is reviewing the document and that's why, even though you had said to come back to execute, in all honesty, we are here if you so choose to negotiate and execute, because there is still some discussion points that we are working through. And I can answer any legal questions you have and of course we have staff to answer some of the more practical operational questions.

>> Spelman: Mayor.

>> Mayor leffingwell: Council member spelman.

>> Spelman: Let me see if i can crosswalk george's themes with where have gotten so far in the negotiation. He said one of the frequent themes that the public raised is that the public participation method needed to be specified and it sounded like you've got that one specified, at least to satisfaction in the ila right now.

>> I do believe we have public participation specified in the interlocal, yes.

>> Spelman: That one we have addressed directly. The scenario should be consistent with the city of austin's comprehensive plan. I may have missed something you said in the very beginning of your speech. Are we there yet on that?

>> I don't know that we are there yet. I don't know if that's something that the facilities commission is willing to agree to in this but we have committed to communicating that information to the facilities commission and then reviewing any of the study result for that type of issue and being able to present that both to you and to the community.

>> Spelman: Okay. So the practical effect of that is they may ask for the study to include scenarios which are insistent with our -- inconsistent with our master plan?

>> They may.

>> Spelman: And we would end up with part of that study which ends up with con con consistent scenarios.

>> Yes, I am not sure if they will ask for a studies that inconsistent. They will ask for what is highest and best use and it may be that the highest and best use may be something that doesn't match our plans.

>> Spelman: Okay. I understand. I think I understand the difference but it doesn't really matter. The city of austin regulations need apply holding aside the master plan, city of austin development regulations need applying. Where are we with that?

>> The city -- I think we are kind of agreeing to -- we feel they apply. They are not willing to commit to an agreement that says they apply. So that's not in there.

>> Spelman: How would we enforce the applicability of our regulations if the state is not agreeing in ad advance?

>> Well, I think that's a different piece of the process of developing these properties. So if you assume that the study is done and it indicates five different public-private partnerships within the capitol complex.

>> Spelman: Okay.

>> And then they would have to go through a process to vet those and to see if there is any interest from private developers to participate in those and if they are, then they would go through the planning and development review process.

>> Spelman: Okay.

>> And public comment and if it's under the sb1048 which is codified and the government code at 2267, the public private partnership act, there is also an opportunity for the affected jurisdiction, which would be us, to comment on all of the things whether or not the proposed project complies with our development plans, whether we have the infrastructure, those kinds of things, we have an opportunity to comment and that relates to the second item, item 64, where if you adopt that one, then there will also be a public comment requirement for that that the city -- it's not something set out as state law but you as a council can make a decision that there should be an opportunity for the public to comment on any proposals that we would receive under that statute.

>> Spelman: So if they do something inconsistent, we will have a chance to call it to their attention and to will the public.

>> Yes.

>> Spelman: It looks like George has an additional comment on the subject.

>> Yes, I just wanted to add that the ILA speaks to the city providing information on plans and regulations and so I think our approach on this kind of delicate issue is we want to -- we want to make sure that the scenarios are informed by our regulations and hopefully shape them based on that, recognizing that there is always the potential for deviation or disagreement on specifics. But, you know, the approach we have taken is sharing the information as part of the interaction through the process, trying to make sure that those are taken into account as the scenarios are developed.

>> Spelman: We don't need to get closure on this issue yet. We are not at that point of the discussion yet?

>> That's part of the -- part of the discussion as well. Yes.

>> Spelman: Okay. Thanks. And the last issue is just generally the premature issue. Do we need to do this now or can we wait on this until, I think August was a suggestion that was made the last time we considered this.

>> Well, and frankly, we -- we wanted to note those comments based on the direction that we had been given, you know, we were -- we were moving forward with working to develop the revised interlocal agreement.

>> Spelman: Okay. Well, working on it anyway and there is no -- let me ask you a screening question because I know it will come up. If the authority of the Texas Facilities Commission should change because the Texas legislature decided they wanted to alter the process considerably or hand the process over to the General Land Office or something like that, what recourse would we have if we passed the ILA in its current form?

>> Well, there are provisions for terminating the agreement and so we could take advantage of that. And I guess there would also be a chance, an opportunity for us to see whether the authority for leasing these public lands transferred to another agency, whether that agency wanted to follow up and continue this process.

>> Spelman: Right. If the authority did change, then presumably we could just get out of the agreement. We couldn't terminate it without termination from the Facilities Commission at the same time? We both have to give written notice for the termination through that clause.

>> Right.

>> But they would not be able to fulfill their contractual obligations if they did not have the authority and within 60 days we could get out of the agreement through that clause. Is that accurate?

>> Yes. It says in the event that either party is in default of its material obligations and fails to remedy the default within 60 days after receipt of written notice of default, the contract may be terminated at the option of the party not in default at the expiration of the 60 days.

>> Spelman: Got you. Okay. Whether it is premature or not is probably a political issue but my concern is more if it turns out this is a red herring and they are not able to fulfill their contractual obligations, then if agreement will become null and void and we will be able to start working with whoever it is that will be in a position to develop these plots?

>> I believe so, yes.

>> Spelman: Thank you. we will go to our speakers. John east dallas man. -- John eastman.welcome. You have three minutes.

>> And I believe there is somebody who is donating time, perhaps? Sorry mr. mayor. not showing -- who wants to donate time and what is your name?

>> [Indiscernible]

>> mayor leffingwell: Robert mcdoogle, you have six minutes.

>> Knew, thank you, mayor, mayor pro tem, council, i appreciate being able to speak tonight and I want to thank the staff because they have been working very hard on this. As you said, my name is john eastman, I represent the bull creek road coalition which is, I think you are familiar, 6 neighborhood associations, oak lawn heights, rosily, rosedale, balcones heights area, breaker woods and westminster manor. Despite the best efforts of your staff, this interlocal, we are asking that you not proceed because the city is not getting good value for its yet undetermined investment. The resolution sounds great. The city of austin's participation and assistance shall focus on various land scenarios shall be consistent with the imagine austin plan. We like that. That looks good. Despite the efforts of your staff, the ila does deliver on that goal. The only mention of the the imagine austin plan is in 02 where in stilted language it note that is the city has the duty and responsibility to communicate the contents of adopt the city plans policies and land use development codes, including the imagine austin comprehensive plan as those documents may impact the areas to be studied. The tfc has no obligation to consider, take into account, or even acknowledge that communication. We understand and we are sensitive to the difference of opinion about jurisdiction that george mentioned. But the tfc's adamant unwillingness to even acknowledge the imagine austin plan, despite your significant and as I said openedded financial commitment makes it clear this is not a partnership at this time. I think there is significant political issues at play. I strongly encourage you to read the west austin neighborhood group letter. I think they captured the issues and I am not going to duplicate their comments. We are also concerned about the issues in the request for proposal that is moving forward. You may not be aware, it is available online. Last month tfc staff showed council that public participation was not warranted. It was really as a feasibility analysis would not include any site specific development plans but the scope of work -- i will be quoting for the request for qualifications that's out. They are short listing the consultants next week, before you guys even have a signed agreement. That's happening next week. It states that the design team will prepare

at least two sites specific development scenarios for each parcel. It then goes on to note that upon selection and approval of the preferred scenario by tfc, no mention of the city in here, by tfc, the design team will develop a scaled plan illustrating streets and curbs, parking facilities, building pads, building height and tree scape and compute a aided graphics and renderings of the plan. All of this developed without public input, without the city having any input even on the direction of the consultants. It seems that the study also includes a bit of reinventing the wheel -- again, quoting from the rfq, it will provide the framework for which tfc may develop site specific design, site specific guidelines and form base codes for private use. So not only is your money being used to develop plans that may be inconsistent with the land use code, the city is also going to have to fund the preliminary stages of alternative tfc alternative codes that they are going to use. So when this study was originally conceived -- i think this has been mentioned, the city share estimated at \$200,000, assuming that is approximately 50% of the capitol complex alone, that is a 400,000-dollar study. As professional planner, that is probably accurate. Maybe a little bit low. It now been expanded to include multiple large scale complex parcels, cover hundreds of acres, it's reasonable to assume the cost of this study has increaseds by 3 or 4 fold. This is easily a million plus dollar study. These issues, we actually -- we are not opposed to development. We are not even opposed to a study. This is something that needs to happen. But these issues would not be so problematic if the tfc had any significant development experience and a track record of transparency and public engagement. Unfortunately, it has been clearly documented in the recent sunset report they do not. In fact, I thought it was interesting, your discussion about authorization. Tfc does not have formal authorization to act on behalf of state agencies. The control of the land is much being studied right now. Please is them. We talked to txdot last week. There has been no -- some of this is txdot land. Some of it other agency's land, it is not all tfc land. In fact, the majority does not. They have no normal authorization. The p3 guidelines are agnostic. They don't even mention the tfc. So the city may be entering in an agreement with the wrong agency. In summary, the cities could end up spending a lot of money to fund development plans that disregard city land development codes without public input and without consulting the actual state agency that is control the land. Based on that information, we don't think it is necessary or prudent to move forward at this time. We thank you for your time. thank you. Mary arnold. Not here. Leslie pool education. Pool. You only have three minutes because robert mcdoogle donated to you to I don't know any.

>> He sure did. I am glad he did. I am leslie pool, I live in the rosedale neighborhood and member of bull creek road coalition. I will cut to the chase. \$200,000 Was repeatedly held up as total cost but it is now called initial monetary contribution, the city will be on the hook for undetermined amounts of money. Talking about proportionate costs, don't give you what the proportion is. That's a contract. It is not definite. It doesn't define form limit proportionate costs. It says the city shall pay. I am wondering about the city's expertise in in services. They are valuable to the tfc. They want. They want the city staff time and effort. They can't even begin these undertakings without them, and, yet, the city is paying as well as offering these services. I think that's backwards. I think that the tfc should be paying the city. That's usually how that sort of a customers -- that's usually how that kind of commerce works. Imagine austin plan is mentioned, I know that was brought up a minute ago. It is a superficial mention. There are no assurances in that contract that it would be followed. The petre opportunity for comment does not guarantee a thing. And I want to give you a line of hearings and reports coming down up at the capitol and by the way the offices up at the capitol have been receiving numerous calls from

citizens who are aware of this. They are opposed to the signing of this ila at this time. There is zero support for it. December 11 is the senate economic development committee hearing, december 19 and 20 is the sunset advisory commission hearings, mid december is when the house state affairs interim report will come out and I am advised it aligns with the sunset advisory commission staff report in its criticisms of the tfc. January 8 is when the session convenes, january 9 is when the sunset advisory commission report is due to legislature. March 8 is when filing deadline is so we will know at that point what kind of activity the legislature wants to take with the sunset bill on the texas facilities commission. Signing the contract inserts the city into middle of issues that are currently not settled at the capitol. It is aprilski. Those close to legislative process advise it would be wise to steer clear. It is risky. I mentioned previously numerous calls going into the capitol the last few days against this proposal. Let's hold the city's fire on this. Give the legislature time to do what it's virtually sure to do. We will know a whole lot more by filing deadline in march. The eextra time will give city staff breathing space to assess how much this endeavor will cost the city, we surely think it is more than \$200,000 and the tfc anticipates it. Please vote to delay this item.

[Buzzer alarming] let the legislation do its work, get clarity. Things are muddy until now. Delay until march, thank you. thank you.

>> Cole: Mayor. mayor pro tem cole.

>> Cole: Well, first of all, I want to thank the professional staff for all of the time, energy, and work that they have done, especially lee la and adams and I want to thank council member morrison for suggesting that we get in contact with the delegation, as you have adams went along with my office staff and met with all of the members -- representatives of the local delegation. That is both parties, democrats and republicans, and gave them information and received feedback from them, and we did not receive any feedback that we should not proceed with the facilities commission. We have two agenda items before us today -- we have two more speakers.

>> Cole: Oh, two more speakers. Oh. Sorry. if they are here, joseph reynolds. Pflugerville I am sorry, joseph. I didn't see you. and you have 3 minutes.

>> Council and y'all, joe reynolds and I live on 49th street. I am here to ask you to delay tonight. The neighbors have been actively concerned with tfc development since june, when they learned of development of the bull creek property. What we found is bigger than the site issue there, though. We have seen the july oversight hearing from the state legislature. We studied the p3 legislation. We have studied the tfc guidelines. We have met with developers, we met with tfc and txdot. We understand the territory. We have been at this for about six months. We see troubling signs of negotiation. From tfc we see contradictory statements. We see changing statements. We see overreaching. Where staff comes in and says one thing but it contradicts what the executive director has said. We see changing guidelines. We see development presented that conflicts with -- that conflicts with the plan presented in the oversight hearings. We see purely commercial development without legislative intent. And they are holding consultant procurements before the city has an ila. From the city, we see seeming lack of understanding of the p3 process. There is no -- not being careful with the provisions. The funding is uncertain.

From state agencies, the sunset commission has issued a very critical assessment. The house states the committee is coming out and the senate economic development committee will look at the whole p3. When will council respond to these flashing red lights? Don't negotiate and commit to anything until the legislature acts. Don't get into an interagency fight. Protect the city budget. If you were driving cattle to wyoming and you came across some cowboys who lived in an area for six months and if they said, it is dangerous up there. Don't go that way, there is quick sand in the river? Would you listen to them or would you keep moving the herd? You could end up like in lonesome dove, in the river with snakes. There is a parallel. The hewlett pack ward board ignored warnings when buying the british software and outside speculators jumped in and cfo quick and the board proceeded now they have written off 8 billion-dollars and now there is a new co. Don't be like the hewlett packard board. Don't enter into this interlocal agreement. thank you. Council member spelman. Did you have a question? Okay. Next speaker is sarah spates -- spots -- spites.

>> Thank you, mayor and council. I wouldn't sign this contract if it were my money and I don't think you would sign it if it was your money. There is -- you are going to lose at least \$200,000 right off the bat on this. He already has that -- well, john described it very well, this extremely long rfq that the tfc has put out there, asking for all of these elaborate services and they want them all done by april. Try desperately to rush ahead -- when I say he, talking about executive director, to rush ahead and get ahead of the executive legislature and somehow prove he can do this. Since I was here a month ago, the sunset commission report has come out. It is brutal. It attacks him for lack of fiduciary responsibility, lack of development expertise, I mean, it goes on and on and on. Next we are going to have -- well, you heard all of the other reports we are about to have come out and I am telling you, I mean, having spent 35 years in the legislature, I am telling you, there is about to be a major change in the operations and who does what and how it's done and you won't recognize how this fits in there, but you will still owe the money. This contract says you will still owe the money. Now, what happens if we don't sign this? Council meer cole says we won't have a seat at the table. I say this is a great way to have a seat at the table. This legislative session, when we are going to be looking at new ways to deal with state land is a perfect time for the city of austin lobbyists and the municipally to get involved over there and see that the cities around the state, where there are properties, that they have a say in it. Right now, I don't know if you are aware, but the general land office has a statute on the books of 25 years that it has worked just fine. And finally it says if a piece of state land is sold for commercial development and it should go through the local land development codes here. They do here. The central market development up there between lamar and guadalupe, the triangle, all of that has been done. The 25 years there have been pieces of property developed under this and the ci has -- holds hearings and goes through its usual processes. Now, in the end, if there is an actual head clogger between the city and the state, there is a review committee it goes to, there is a review it goes to and then the local community has that, too, and so they normally win. But in the meantime.

[Buzzer alarming] a lot of good things have been worked out. And we can use that very process and say, hey, this has worked 25 years. Let's use this on these other projects. thank you, sarah. Thank you.

[One moment, please, for change in captioners]

>> I was saying earlier that this item was the ila, the basic premise is that by us getting into the process earlier, the process will be improved and that's what i believe. Item 64 lays out what happens with specific projects for land use at a much later stage. Right now we are in the study stage, and so the ila is only dealing with the study and potential development scenarios during the study. And lastly, which I think is the most critical point that creates most of the confusion, is that we are not addressing the site development process. adams put it. We are not getting into the, quote, delicate areas. We know our history. We have been challenged in dealing with the state of texas on land use issues. There's no question about that. But the question is, are we going to continue to do that or are we going to try to come up with some type of collaboration moving forward and working together, and i believe that that is the best way to approach this. I wanted to point out that i went back and looked at the tape from 2010, and we passed this item then on consent with absolutely no discussion, and since that time many things have happened. The p3 legislation is out and it is new, and I expect that it will receive clarification during this legislative session and subsequent legislative sessions, and as the state begins to understand it, we also will understand it and begin to participate more in a public manner in that process, like we are laying out in item no. 64. It is approximately 200 acres of infield development that is at issue here. This is prime real estate property, crucial to our tax base, and the amount of money that we are putting to participate in this early stage of the study pales in comparison to that potential position of our tax rolls. Okay. There have been many questions raised as a result of the sunset commission review of the facilities commission. The first recommendation of which is that the commission should engage in a coordinated, transparent approach to planning future development of the capitol complex. I believe that the interlocal agreement is part of the solution to addressing this issue. 2 by the sunset commission recommended that no formal action on p3 proposals be evaluated by the commission until september 1, 2013, so that the commission has time to study, which is what we're doing here, and analyze its ets. Again, I believe it's critical that we be a part of that and that is part of the solution in addressing that issue. During the public meetings an I met with many of you in my office i understood the concern public meetings and neighborhood feedback, and I want to point out to the public and my colleagues in general that language was added, and leala mentioned this in 01 that ays that there will be a public process. And it we will conduct public outreach to keep the public a prized of the work and solicit public deliverables. Questions were also raised about our ability to vide for the ability for us to sever the relationship with notice so that we could end the contract. So if any of the contingencies like council member spelman brought up arise with the tfc losing its authority during a legislative situation, we do have the ability to end the contract. We added to the ila in 02 h language that the city will communicate the contents of the city plans and land use developments including the imagine austin comprehensive plan, and I think council member spelman nailed that point that we can't make them follow our plans, but they will be a part of the consideration and we will point it out. The general land office issue has been raised along with the issue with txdot. If even the general land office or txdot does approach us, we will have to consider whether we want to enter into any type of agreement with them. That simply just has not been a part of the discussion. There are also questions and concerns about our funding commitment, what were we on line for financially. I share your same concerns. I am about to make a motion and I will make an amendment to the ila to make sure that that language is clear, but before I do, I also do not want to forget to thank jim robinson and fred evans and all the city manager staff that has been working so hard to make this agreement a reality. With that said, mayor, i move approval with two minor additions to the contract and resolution. The first one was in the interlocal agreement.

, Section 3.01. The third sentence should read, "as to the additional study area, the city's monetary contribution will be determined as a result of solicitations for professional services and are further subject to council-approved funding, not to exceed \$200,000. So that not to exceed \$200,000 is new language. And then in the resolution, the first be it resolved clause should add "and execute the city manager. The city manager is directed to negotiate and execute " and then the last be it resolved clause should also have the language "not to " so it would read "be it further resolved, the city manager is directed to bring forward for council approval any potential additional funding authorization as those may develop on an incremental basis to facilitate the implementation of the interlocal agreement in an amount not to exceed \$200,000. And with that I move approval. motion by mayor pro tem to approve item 63 with the revisions noted, and you'll provide those to the clerk, i assume. Second by council member spelman. Discussion? Council member spelman. I would like to ask the maker of the motion a couple questions to clarify those amendments. We have already showed that we were willing to spend \$200,000. Is the \$200,000 you mentioned just a moment ago in addition to or is it the same as the \$200,000 we started this with? it would be in addition to but we still have budgeted the original amount.

>> We have.

>> Cole: yes. so the total cost of this contract, this agreement, would be no more than \$400,000? yeah, no more than \$400,000 with the additional language I added and that is definitely my intention. Laila, do you want to come to the podium to make sure we're making that happen? What I'm trying to make clear is that we have already [inaudible] pursuant to the formal resolution, \$200,000, and that this expanded scope does not exceed an additional 200,000. And we have already given authorization to spend that 200,000 from the formal resolution.

>> I think your intent is clear, and to the extent that you're also authorizing negotiate and execute if we need to make that furthermore clear, we have the flexibility for you to be able -- for us to be able to do that. But of course the facilities commission is not here, so i don't know how they'll feel about it.

>> Cole: that's okay. That is my intention. That is my -- what I'm trying to offer, and if they do not accept that, then that's a different issue.

>> And I think you've made it very clear and I can follow that in the agreement. -- In the resolution.

>> Just a brief follow-up. The version -- the most recent version of it I have, the second line of section 301 states "any additional monetary contributions by the city will be determined by the city council upon receipt of a request by the commission of the city manager. Is that operative language or has that been changed in the latest draft?

>> The second line that i have is "as to the additional study areas, the city's monetary contribution will be determined as a result of solicitations for professional services and are further subject to council, now with mayor pro tem cole's amendment, approved funding not to " the reason i mention it is because I was reassured by at least one of the previous drafts that that -- that any additional money, 200,000, or whatever the number turned out to be, would not be

authorized, we wouldn't be able to spend it until it actually had come back to the city council. We'd have a chance to see exactly what we were getting for any additional increment at the time.

>> Yes. is that part of what will eventually be in this agreement by your motion, mayor pro tem, or -- yes, the idea is that as deliverables are generated, that development scenarios that are asking for us to share a proportionate cost, those would come to council so that we could see those, but the total sum would not exceed 200,000.

>> Spelman: okay. So if -- as long as it's -- yeah, the city manager -- the particular parcel of land requires \$112,000 worth of work, if it does, we'd see the 112,000, that would leave another \$88,000 for the next parcel and so on?

>> Cole: -- parcel?

>> Cole: yes, nrca.

>> Spelman: okay. I understand your intent. Thank you. council member morrison.

>> Morrison: thank you. Leala, I have a few questions about the contract. I just got this last night at 6:00. I do not have a copy that has changes noted on it, so it's been very, very difficult to review.

>> I'm sorry, I think I have given that to your aide --

>> a copy that had tract changes?

>> Yes challenging because as the drafts have gone back and forth, the facilities division has a more up-to-date version of word than we do, but I believe the drafty gave to barbara rush has the tract changes as best I can do it. you mean you highlighted it?

>> No --

>> morrison: okay. I never got that. I never got that.

>> I'm sorry. last I heard from her was that that was not available so there must be some miscommunication. So I've just had to go through this by hand. So I do have some questions. There are references in the contract to deliverables. Is there a list of deliverables anywhere?

>> The deliverables are in exhibit a.

>> Morrison: okay.

>> Which is the phase 1 and the phase 2. and where does it say what the deliverables are?

>> Well, phase 1 is described as the -- the list of what -- so the deliverables are the things in the list?

>> The phase 1 and phase 2 studies are the deliverables, and then -- and where does it say that?

>> Well, it describes them in the agreement, and maybe George can walk through this.

>> Council member, I'm on page 10 of the agreement, the -- at the top of that page you'll see the no. 10. Below that there is a paragraph, and the -- let's see, let me make sure I'm in the right place. Yes. About halfway through that paragraph it reads "milestone d phase 1 of the work shall consist of the draft and " which is essentially the compilation of the assessment of the existing conditions, which is -- which is phase 1. And then for phase 2, if you go to page 11, the last paragraph, it reads "milestone deliverables for phase 2 shall consist of the draft development scenarios and the draft and final development feasibility in asset valuation reports.

>> Morrison: okay. So when it says "provide milestone deliverables no less than quarterly, does that mean they're going to be providing a draft every quarter?

>> The -- I think the last time I read the language, it says quarterly or more frequently, if requested. so they'll be providing a draft every quarter?

>> At a minimum, yes.

>> Morrison: at a minimum. Right. Okay, and then on page 4 of the report, at the top of the page where it says I -- it's letter i, section, it's the first i, in conjunction with its responsibilities, the city will conduct public outreach. This is where we talk about involving the public, to keep the public apprised of the progress of the work and solicit public review and comment on key study deliverables, provided, however, draft reports and deliverables are not subject to publication or distribution. So -- I guess that's probably open records. So what I get from that is, we're going to be providing outreach and asking for comments from the public on the final products, because the drafts are not available. And so they'll only get to see one. They'll get to see the final. Is that correct?

>> The way that the deliverables are defined in the paragraph that George pointed out, the proposed final report, so it's not absolutely final until it's accepted by the -- by the city, will be available for us to communicate to the members of the public and to get feedback, and we can include that feedback in our analysis. And that's in both phase 1 and phase 2.

>> Morrison: okay. So thank you for pointing that out, because the deliverables are the draft and the final reports. Yes.

>> That's the line. So the public is not allowed to see the drafts, they're only allowed to see the final much the proposed final report is subject to review and comment. So you're saying that the proposed final report is not a draft and so that is subject to -- is available for review by the public?

>> Yes.

>> Morrison: okay. So we'll be getting deliverables once every quarter or more, and the public gets to see the proposed final reports and then the final report.

>> Correct. so they can -- so they'll be able to provide comment after all the drafts have been gone through.

>> Correct. And the concern that the facilities commission had and the provision that you've noted in the open -- in the public information act is something that is supposed to encourage the government entities to go through the drafting process and edit and provide feedback so that the report that is produced is something that doesn't have typos and other errors in it for the community to look at or for the public to comment on. And that was -- with all due respect, as this is being developed, you know, there are concepts, there are huge framework issues, there's lots and lots of very significant conceptual things that are going to be talked about and worked there, and frankly, that's not the way I'm used to working with the public at the city at all. If you think about, for instance, imagine austin and the process that we went through with that, where it was the public, it wasn't just that we sent staff into a room and they went through a bunch of drafts and then they came out with a proposal to get the public comment on. That's really significantly different, and I just want to make it clear that this is extremely limited public participation. It's the public can come see what's proposed and make some comments and then i guess there's a process for perhaps including them. So -- and then I just want to make sure I understand, the total contract is 400,000, so 200 of that is going to the capitol, according to this, the capitol area study, because that's what this says, the capitol complex. It's my understanding that we will be providing 200 for the capitol complex and then 200 for all the other studies combined.

>> With the mayor pro tem's amendment, yes.

>> With the mayor pro tem's amendment. it's already -- excuse me, mayor. We have already --

>> that 200 -- so now we're only doing 200,000. We've already approved the other 200,000. I understand that. Well, I don't know that we have a budget amendment approving this --

>> cole: no, no, in 2010. I know, but for the extra 200,000. we haven't -- that's what we're doing now.

>> Morrison: okay. So that's a good question. Where is that 200 coming from? city manager?

>> At this point I'd have to go look at the budget and find it. I trust that there is sufficient funds and fund balance to provide for that. in like the reserve funds or what --

>> pardon me? I'm not sure what you mean by fund balance.

>> In the previous budget year fund balance. okay, left over from last year. Okay. I guess we need to be pretty careful about that because i know that we've passed one resolution that set a priority on some of that money. And I have another question. That's deliverables and that's -- and I do have a question on -- then at the top of page 5 on the contract.

>> Yes. it mentions, the commission will invoice the city and the city shall pay the city's proportionate share based on the relative monetary contributions of the parties for the deliverables. How do we know what the relative monetary contributions of the parties for the deliverables is at this point? I'm not sure what that means.

>> Well, what we were trying to do is say that we are not going -- let's say the total study costs \$800,000 and we're only there for \$200,000. We would not agree to pay our \$200,000 first. We would pay \$2 for every 6 that the facilities commission would put in as the contract was completed. So that's the intent of that language. I don't know how much the amount is in the facilities -- and the facilities commission has said that they don't want to put an amount in here because then what he said up happening is the responses to the requests for proposal end up coming right up to that amount. And so they want to see what the responses are and analyze them. okay, and so -- and those are the responses, as I understand it, that are due pretty soon, and then they're going to be awarded by february if -- if that's -- if I'm right. But now, of course, that's -- I don't understand how that plays with the -- now, the limit of \$400,000, because if the rfp comes back and it's going to cost 2 million, does that mean --

>> well, the 200,000 is for the capitol complex, and then if the rfp came back and there was an additional amount for the rest of the areas, then, as I understand the mayor pro tem's amendment, we are only agreeing that we would pay an amount not to exceed 200,000, whatever that comes - - so if it came back \$2 million, we're saying we're capping our additional contribution at 200,000. so why does it make sense to have that proportionate share reference in there with the cap of 200 -- of the extra 200,000?

>> Because we didn't want our dollars to go out without the facility commission's dollars also going out. We didn't want our dollars to come out first. That was why we put that in there.

>> Morrison: okay. I think that if I have the chance to look at this a little bit more, because i had actually 113 other items to deal with today, I might have some more questions. I'm certainly not prepared to support this, and I do still believe that it would make sense to postpone this. I think that the question about the rfp is really significant in terms of helping to describe the picture of what's going on here, and I have a real concern that this came to us on november 8 and there was a request to finalize our participation, council's authority on that, and we knew nothing about the rfp at that point. It was just by happenstance that we found out it was released four days later, and when you look at the rfp -- I don't know if anyone has had a chance to do that -- look at the scope, it's very, very significant. They are asking for a lot, and I expect it to be very expensive, so I appreciate the cap of 400,000. That certainly lessens the problems I have with this, although I still have problems with it. I do believe that, you know, it's been discussed over and over again that we can expect a significant amount of change in the coming months, and I think it is much wiser to make until that change has happened. I heard a couple of things tonight, that if the goo had approached us we would consider partnering with them. If that's really a possibility, it seems to me that we really ought to be proactive and figure out what is the best place to be partnering. I also am concerned, having heard language that up at the capitol in a meeting with all of the staff of the delegation, that we did not hear feedback that we should not proceed. Number one, I'd like to know if we asked for that feedback whether or not we should proceed, and number two, whether or not there was feedback that we should proceed, because I heard some very direct

feedback that we should not proceed. I think that it makes enormous sense to wait until some of these things shake out, and what I'd like to do is I think leslie was the one that listed out all of the things that we can expect, including -- I'm not sure if you also -- all of the committee meetings and getting the recommendations, and then the rfp is actually going to be awarded in february. The last day to file bills is on march 8, and so I want to make a substitute motion that I think it makes a lot of sense for us to wait to actually sign this until march 8. So my substitute motion is that we direct staff to continue negotiation and bring this back to us at the first meeting after march 8 for execution. So that's my substitute motion. Substi substi tute motion by council member morrison. Is there a second for that? Council member tovo seconds. So now we have a substitute motion on the table, which is, as I understand it, to negotiate but not execute until after march 8 with further council direction at that time. Is that correct?

>> Morrison: yes. Discus discus sion? Council member tovo. I'll just say that there are lots of concerns, very particular concerns about the interlocal agreement and we've certainly heard lots of community feedback and we've heard, you know, comments one way or another, conflicting comments, I'll say, about how our local delegation thinks it's best to proceed. So I think -- I think what -- you know, we've talked about other options. We've heard community --

[inaudible] james 2 postpone for a long period of time. I think the recommendations we've heard from the west austin neighborhood group and others to just wait until march, strike a good balance, which is the motion that we've got before us today, the substitute motion. that's where mark --

>> I want to follow up with the city manager on one question I thought I heard correctly and that is that this is an unfunded item.

>> Yeah, I think the action before you tonight doesn't entail an actual appropriation. As I understand the language you're just setting the cap. So if council approves this as was proposed by the mayor pro tem, then I would understand that I'm instructed to go back and find an appropriate funding source and bring that back to council be.

>> So it would be a budget amendment that would come back to council?

>> It would indeed.

>> Martinez: great. Make it a clean -- all right. Thanks.

>> If I might, to mayor pro tem's point, you did \$200,000 of this back in 2010, so it would be an amendment for an additional 2.

>> Mayor? council member spelman. I would like to ask somebody on staff a question. I'm not sure who it is. I think it might be george, though. George, if it's not you, feel free to pass it off. I'm going to try to imagine two possible scenarios. One scenario is we pass this now and we enter into an agreement, we actually get started. The second scenario is wait till march 8 and we reconsider our options at that point. Presuming that the commission is interested in showing, for example, legislation in the sunset commission, that they're able to do this job and then we'll

move forward with whatever proposals are on the table, pick up the rfq and just keep on going. What -- what mischief can they get up to without us between now and ma 8? Feel free to rephrase my question if you feel it's going to be more politic to do so.

>> I would love to pass it on to someone else.

>> Spelman: I bet you would.

[Laughter]

>> just by mischief, if you could define that maybe a little more. I knew you were going to ask me to do that. The primary reason for doing this is not because we love this process. The glo is a much better process from our view, cities all over texas, the glo process is a known quantity. We understand how it's going to work and we understand what our authority is going to be. We don't understand what our authority is going to be in this process working with this commission. On the other hand, I believe that mayor pro tem cole makes a really persuasive point when she says it's much better for us to be at the table participating as best we can with this flawed process than not at the table. And I'm wondering what practical difference will it make if we're not at the table between now and march 8 than if we're at the table starting right now.

>> Well, I would like to think that we can bring the city's perspective to the table if we -- if we are there. Some of that may be well-received. Some of it may not. We don't know until we get into that process. I think we do have -- we do bring value to the tfc. We have a lot of geographic information systems, data that, you know, they are very interested in. We have a lot of information on infrastructure, on flooding, you know, all sorts of issues that are the things that we do every day that we would bring to the table. They would -- they would have to find a substitute for that, and they could certainly do it. It might entail additional costs in some situations. I certainly under what we bring to the table. We know what we're doing. We've been here before. These are parcels inside the city and we have a lot of information about them, and they're all covered by our comprehensive plan. The tfc doesn't have that kind of information. They're going to have to gin it up someplace so they have to come up with a -- I can't remember the terms of art invented for this purpose but they've got to come up with a scenario what can be done with the land, they have to gin up information that comes from somebody else. They might not get it right. Might be inaccurate, not as good as information we have in our back pocket. Is that the likelihood?

>> You know, I think that's a possibility. You know, they certainly can get the information through other means. I think it's going to be quicker, and perhaps more reliable coming straight from the city. Now, having said that, i don't know -- if they proceeded without the city, I think the primary difference is they would not have that city perspective at the table, and they would perhaps be -- perhaps they're not interested in that, but they would be -- they would be guessing at a lot of those issues. presuming, of course, they cared enough to guess.

>> Excuse me? presuming, of course, that they cared enough about the perspective to guess as to the city's perspective. They may not even bother with that. And they'd have four months -- they would march four months down the line towards a lease or an agreement of what would be

constructed. It's unreasonable to expect they would actually have chosen a lead holder, drawn up a -- leaseholder, gotten started in construction. That's longer than four months the. But they will have gelled their thinking as to what that would look like.

>> My understanding is the purpose of these studies are not to move toward a lease. They're to essentially provide an evaluation framework for future proposals that come in either through the 22-67 process or some other means.

>> Spelman: okay.

>> So these are really feasibility analysis. They're not development plans.

>> Spelman: okay. So by feasibility analysis, the primary result of this feasibility analysis is going to be in the hearts and minds of the tfc staff as to what it is they can reasonably expect to accomplish in each of these parcels; is that accurate?

>> I believe that's part of it. They're obviously also interested in, you know, what is the return for the various scenarios, what are the impacts of the various scenarios. What are the costs of the infrastructure that would be required, those sorts of issues. the primary accomplishment I had in mind be had a dollar sign in front of it, actually. Yeah. Okay. Thank you.

>> Morrison: mayor? council member morrison. george, I have another question for you. I guess one question, what I'm really focusing in on is we sort of have in mind that this process is going forward, that folks at the tfc are sitting down at the table and doing this work starting tomorrow, but, in fact, it's my understanding that had this work -- that they're hiring someone to do this work and that hire -- that award won't be until february. So do you have any sense for whether this is actually going to start now or -- before february, whenever it's awarded? Especially because I think that one of the comments in the sunset report was that the tfc didn't internally have the expertise to be doing this kind of work.

>> I think that is -- the tfc staff will not be doing the analysis. That is why they're procuring consultant services. How long it takes to mobilize and get ready to begin that process, I can't really speak to. so you're not familiar with when that award is supposed to be made? Because I heard from the -- from the constituents that the plan is for it to be awarded in february.

>> That's my understanding, yes.

>> Morrison: it is. So really there's not going to be any work until february. Any technical work on the content, on the substantial part of what's in exhibit a?

>> That's possible, yes.

>> Morrison: okay. So I guess that, to me, is pretty significant, and matches up pretty straightforward with putting off our final decisions until after that happens. We're not going to be missing a seat at the table. There is no table yet. There won't be any table until february. Do you know when -- is there a specific date in february when the contract award is --

>> I'm sure there is. I just don't have that in front of me.

>> Cole: mayor? mayor pro tem. we've heard a lot about the rfq that has already been issued. George, have you seen that? Do you know anything about it? I haven't seen it.

>> Morrison: I've read it. It's available.

>> I've perused it but i haven't studied it in extreme detail.

>> What does it do? Or how long is it? How long is it and what does it do?

>> Jim robertson with planning development and review. The rfq -- and I haven't read it front to back word-for-word, but the rfq was dated november 20, and essentially it -- it identifies a need and asks for firms to identify qualifications for a team of professionals to do essentially strategic facility planning development scenarios, analyses of those development scenarios, and so forth. thank you, jim, because the point I'm getting at is if we had a seat at the table already issued an ila, then what input will we have known more about the rfq before it was issued?

>> Probably -- I would only be speculating if I knew the extent to which tfc would have given us a role in developing or executing the rfq. let me ask it this way. Would we only be speculating about what actions between now and march 8 that tfc can and could take in terms of the redevelopment of their do we really know that?

>> I'm not sure I understand your question. what I'm trying to get at, in my opinion, and i just want to make sure I'm right, we don't know how much or how far without us they can get on the redevelopment of their unused and underutilized land.

>> That's correct. I think it's -- I don't know the answer as to how far they would proceed prior to having a full team of consultants on board.

>> Cole: right. And we also know that they at least have issued an rfq that we are unhappy about because they moved forward with that without us, so we know that we can take actions without us and that they have. Thank you, mayor. the vote is on the substitute motion. Council member riley, do you want to --

>> riley: I have a question. I think this would be a question for george. This -- this resolution contemplates negotiation -- continued negotiation with the facilities commission with regard to having this -- this agreement that's on the table. And I just want to explore, in light of the concerns that we've been hearing, have we explored options with respect to what that relationship might look like? And in particular right now what we're talking about is largely a matter of writing a check or being -- making our checkbook available, up to a limit of an additional \$200,000. But we're also talking about the fact that we have a wealth of data and other information that would be useful to the facilities commission and whatever consultant that it gauges. So it seems like the relationship -- the part that the city might play in this could well include making that data available in a -- to have a productive working relationship as opposed to simply writing a check to the consultant and having them do that. Even if we weren't writing a

check for \$200,000, we could still have a working relationship that would entail the provision of data and planning information. Have we had any discussions with the facilities commission about whether they would be interested in maintaining that kind of working relationship even in the absence of an interlocal agreement that includes the payment of a significant chunk of funds from the city?

>> Council member, we haven't had those specific discussions. I can -- I can only speculate that, you know, they would be interested, certainly, in, you know, having access to that information. But we haven't had that specific discussion. I -- one concern that I would have in light of mayor pro tem's comments is that it seems like there would be value in our maintaining a working relationship with the facilities commission and any consultants it engages, even if we're not writing a big check. And so I guess I'm just raising the possibility that there might be a third option that we could pursue as opposed to diving into the interlocal, you know, head first right now, or alternatively, just slamming the door till march. If we continue having an open working relationship, including negotiations, with the facilities commission, making data and information and planning documents available to them and their consultant and being able to consider -- willing to consider other agreements throughout the coming months, and so I guess i would raise that as a question for the mayor pro tem since she has had -- I think that's good additional direction that we should be working in that manner. well, I guess I'm asking -- I guess the motion -- right now we have a substitute motion -- right now we have a substitute motion. and I guess my concern about that would be that it would simply -- it wouldn't even allow that sharing of information, and so I guess that -- that would be -- I would just raise that as a question for the makers of the motion, do we really need to slam the door on any -- any role in this process until march as opposed to maintaining that working relationship with the commission and its consultant. mayor, I have a -- I see his question better now. council member morrison. I think that would be a fabulous idea, because if you look at the phase 1 listing in exhibit a, there are lots of things that we already have available that we could just make available. I mean, they're publicly available. It's more a matter of formatting and, you know, getting them into a usable from their point of view. So I think that that would be perfectly fine, and in any case, no matter what happens, that's helpful information for them to have and it helps us for them to have that information because we know that they're basing their planning on all of that. So I'd be glad to change that motion to actually say bring it back on march 8, but as far as possible provide information to the tfc. council member riley -- mayor pro tem. I think i understand your question a little better. It's kind of like -- i thought you were getting at should we be cooperating more now without having an interlocal agreement and first I will point to the fact that we issued a resolution back in 2010 and we have been working with them. Could we be doing more? Yes, but the interlocal agreement and the staff have been working very, very hard to formalize that so they can move forward during the legislative session, and they want us to execute an agreement now, and it doesn't preclude us from adding further direction to our staff about how that agreement is to be further negotiated or worked with in addition to that or outside of that agreement. But I would not like to see this item postpone march 8. council member riley. I guess that gets to the substance of my question, which is what are we missing out on by not taking action immediately? Why is immediate action necessary as opposed to waiting till march or some other time? oh, thank you, mayor. The facilities commission is asking us to help them with their study at this early phase, not only for the \$200,000 but for our expertise, and so they are trying to live up to their commitments to the legislature, and they would have a difficult time

moving forward without our expertise, and if we hold that back, the very thing that we are sensing that might happen could happen simply because we're not a part of the process, as George explained about the information gathering. So -- and they feel, and I agree with that, that that should be done as a part of the interlocal agreement, that we actually have a contract in place that spells all that out. I mean, I guess you could just ask George about what's been going on in the last two years or not in comparison to what you're asking about, but we got to this point of actually needing an agreement and wanting an agreement because of the lack of specificity in moving forward and what they were trying to do.

>> Riley: okay. Mayor? council member Riley. If I may follow up with George, then, and ask about the communications that we've been having with the commission as a result of the agreement that is already in place. Does that agreement provide a mechanism for our sharing our expertise with the facilities commission?

>> Well, the -- the agreement associated with the original resolution was never executed. There were -- and that was for a number of reasons. It's taken us a while to flesh out the scope. The TFC was also diverted by the passage of 22-67. They had to develop their guidelines and that sidelined them for a number of months. So by the time we were honing in on a draft ILA based on that first resolution, the additional study areas came along and we began the discussions on that, which brings us kind of to the revised ILA. Will you we don't have an ILA in place today.

>> Right, not for that first resolution, that's correct. At what point do you expect -- the ILA that's before us contemplates a phase 1 that would entail a lot of information gathering, which is exactly the sort of work that we've been discussing, that would entail the sharing of data and planning information. Do we expect that that would -- that would really get into gear when the consultant is hired in -- in -- was it February or March, or would that be done in advance of that time?

>> Well, I think the short answer is we haven't had those detailed discussions with the TFC staff. It's possible that we could start mobilizing sooner rather than later with -- in terms of, you know, gathering the information and packaging it. It's also possible that it might be the -- the best benefit might be to wait till the consultant is on board -- or on board and under contract. Haven't had those detailed discussions at this point.

>> Martinez: Mayor? Council member Martinez. I think that's a significant point. We could provide them information right now but why would we spend our time gathering information when they haven't hired a consultant, to ask us what information and expertise they actually need? We know that that won't happen until February. If the TFC were to call over today and ask you for assistance on something, I don't think we'd shut the door and say, sorry, we can't do it, but what we know today is whatever they call and ask, it's going to be minimal because they've acknowledged that they don't have the expertise and that they have to go out and hire a consultant. So for me at a minimum we're looking at February or a little beyond that whenever these consultants get hired. I think staff is -- I can't -- I wouldn't put words in your mouth, but I can't believe that you would ever slam the door on any other agency within our jurisdiction that says, hey, we need some help. We're not experts at this. Can you provide information with your thoughts or your advice on this particular potential redevelopment? And I'm sure we'd provide

that assistance as we could. So, you know, I'm going to support the motion. I'd be open to more direction or enabling staff to continue working closer with facilities commission. I'd even be open to maybe a modified postponement to february till they hire the consultant, but i just -- you know, I don't see the impetus for acting today, and we haven't even identified the funding for it. council member riley. council member martinez mentioned the possibility of aiming for a date in february as opposed to march and I wanted to ask the maker of the motion whether that is something that would be considered. I would certainly be open to that. council member morrison. I don't have this validated but that the award is supposed to happen at the end of february, february 26. But if you'd like to suggest a meeting in february, I'd be very open to that, and we could at least have the opportunity to push through anything that we might need to be addressing with the events that are going to be happening. So if you have a suggestion I'd be open to it. council member martinez? Riley. I'm just pulling up the council meeting schedule for 2013, which we approved earlier today and noticing that we do have council meetings on february 14 and february 28. I think the 14th would be fine. I mean, it seems like there's an interest in doing it sooner rather than later at least on the part of some folks. And I don't see any difference in 14 and 28 from 3re6bg9 from the perspective of knowledge we would have at that point.

>> What is your proposal? let me frame this in the form of the question for mayor pro tem. Suppose we were to aim for -- to come back to this on february 14 and in the meantime we continue discussions with the facilities commission and we direct staff to make available to the facilities commission any data or planning information that might be useful in the course of preparing for the consultant's work, and so that we maintain the dialogue with the facilities commission and then we come back on february 14 and consider building on that relationship with any further action on the 14th. And I just -- all I can communicate to you, council member riley, is that they came to us two years ago. They have been in conversation with our staff. They came to us again in november with the sense of urgency in light of the legislature wanting to move forward and wanting to move forward with us in collaboration. I know that they want us to move forward today. If we don't move forward today and we're moving forward with negotiating, executing, giving that authority to continue those conversations and move forward on the interlocal to the city manager, so it's not like because we approve this today, we -- everything is set in stone. It's still some discussions that are going to take place, but it's just like the typical interlocal contracts that we award with numerous governmental entities, but they've asked for our help. They've asked for our help in an area that has been historically fraught with challenges, and I think we send a bad message today if we say, well -- send a bad message today if we say, well, no, it's just not -- i don't know, well -- I mean, there's no reason. The monetary value that we have to gain from our participation and getting involved in this process early is significant, and i think we send a bad message if we do that. I think it's not in accordance with what they have asked us to do, and i think that it leaves room for mishandling of the redevelopment. i haven't said anything yet but I'll just say that i believe that time is of the essence in this situation. I don't believe that the tlc is acting in this way, making this request in a vacuum, and I think if we miss out on this opportunity to -- in the form of a policy statement, not just a -- you know, a sort of exchange of information informally between the staff and them, I think we may miss the opportunity to actually influence the outcome, if we wait, and i think we need to be table sooner rather than later. I think the only way that can be done is with specific policy direction through an iou.

[Laughter]

>> ila.

>> Iou.

[Laughter] council member spelman. in a sense, our relationship with the facilities commission is going to be very much like a negotiation, and our negotiating position, i believe, is stronger if we start now than if we wait until later. If we wait until later, then either of two things will one, we cease to negotiate with the facilities commission because the legislature hands the authority off to somebody else in which case we haven't lost anything. However, if the facilities commission retains its authority to continue to do what it wants to do with the parcels inside the city of austin and we don't join until later, we've lost an opportunity to actually work with them over the three or four months leading up to that point. And we really can make good use of those three or four months and I'd like to see us do that.

>> Mayor leffingwell: okay. So substitute motion is on the table for a postponement, basically, until -- now it's february. February 14. All in favor of that? Council member riley. I want to say my reasoning for the vote we're about to make. I share the concerns that have been articulated there, but -- articulated there, but in particular i wanted to add that the main issue -- the main problem that I've seen with the way the facilities commission has typically conducted its business is it hasn't done a very good job of collaboration and outreach and working with stakeholders and that sort of thing, and that's what's discussed -- that's a principal focus of the sunset commission report.

[One moment, please, for] ecl) 3,.

>> Whether we could put off that commitment for some time but I feel certain that we will need to be playing that part at some point, and given the concerns that i expressed, I am fine with going ahead and making that commitment now and making sure that we are at the table as the process gets underway. all in favor of the substitute motion, say yea. Opposed say no. Motion fails on a vote of 4-3 with council member riley, myself, council member spelman, mayor pro tem cole voting no. So that brings us to the main motion by mayor pro tem. All in favor of that motion, say aye. Opposed say no. Council member martinez. That passes on a vote of 5-2 with council members tovo and morrison voting no. So that brings us to item 64. And same subject. We already had the public comment on this. This basically is mayor pro tem cole's sponsored item --

>> Cole: Move approval, mayor. mayor pro tem cole moves approval of item 64. Is there a second? Second by council member spelman. All those in favor, say " aye. Opposed say no. Passes on a vote of 7-0. That's -- completes our agenda for the day, so without objection, we stand adjourned at 11:01 p.m. Ask