

## Closed Caption Log, Council Meeting, 07/29/10

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I'm austin mayor lee leffingwell.

I'm joined here by travis county commissioner, karen huber.

And also by willie conrad of the city of austin, and roan ghoul of the fish and wildlife service.

Rowan, where are you?

I saw you a minute ago.

Four of us together constitute the balcones canyonlands conservation preserve coordinating committee.

Karen and I are the voting members, and at our last meeting we voted to honor the family of sam hamilton.

fish and wildlife representative here in austin several years ago, about the time we started the balcones preserve.

The balcones preserve has been and continues to be a recognized standard to preserve systems around the country.

We're very proud of it.

Sam did a heck of a job in helping establish this program, set the standard, as I said, for other preserve systems around the country, and he was recognized for those efforts and promoted to -- I believe about a year ago he was promoted to head of the u.s.

Fish and wildlife service in washington, d.c.

There was an interim service that he did in atlanta, georgia, which I believe is where his family currently lives.

We're very glad to have you with us here today to honor you and honor your husband for his accomplishments.

And I want -- we should have on the board -- yeah, there it is, a map of sorts for the two plots of land that the city of austin and travis county.

Travis county has yet to go through the official process

[01:02:00]

of naming this land, but they will -- I'm confident, the city of austin has already made this donation of a very biologically, ecologically significant piece of land.

As a matter of fact, it's the old water treatment plant site, which was purchased by the city of austin, fully mitigated back in the 1980s, and since we have decided we will not construct our water treatment plant on this site, but we'll do it on another nearby site, the highest and best use of this site, as opposed to being a big box store or something like that, it's going to be a park of the balcones preserve, and so we're very proud of that and so it will be preserved in sam hamilton's name in perpetuity.

So I'm going to read this proclamation from the city of austin and then introduce commissioner huber.

It reads, be it known that whereas during the his 30-year career with u.s.

Fish and wildlife service, including five years as texas state administrator, samuel sam davis hamilton supported a vision of environmental quality and wildlife protection in balance with community needs, and whereas, central texans are particularly indebted to sam hamilton for his efforts to establish the balcones canyonlands conservation plan, and whereas bccp has become a national model for endangered species habitat preservation, being the first such multi-species and urban area effort and now encompassing more than 28,600 acres in western travis county.

Now, therefore, i, lee leffingwell, mayor of the city of austin, texas, do recognize and appreciate sam hamilton's lasting contributions to the quality of life in central texas and do hereby proclaim bccp in naming a tract of land

[01:04:00]

within the bccp for the sam hamilton memorial preserve in austin, texas.

Congratulations.

[Applause] I'll introduce commissioner huber.

>> Thank you, mayor.

First I'd just like to say to the family I'm not going to read everything -- on behalf of the travis county commissioners court and the residents of travis county we offer you this proclamation recognizing sam hamilton.

But I do want to say just a couple of words.

Oftentimes people who live in a community do not know the names of those people who have contributed so much to what makes our community what it is.

And I'm absolutely delighted today that we are recognizing sam hamilton.

His efforts on behalf of the bccp have had far-reaching impacts on our community, not just the preservation of the golden cheek wabler or the black cab vireo, but we have 26,800 acres within travis county and the city of austin that have been set aside inperpetuity.

It's not just endangered species and habitat we've preserved.

This land contributes to our water quality, the water flow in our creeks, and the ambience and aesthetics of austin and travis county that attracts and helps in our economic development.

The impact is far-ranging and it is long-ranging.

And I want to dovetail back preservation of the

[01:06:01]

two endangered species this was targeted for initially.

It's not by chance we have the same about the canary -- the saying about the came nairy in the -- cary in the coleman.

Our birds are indications of other problems.

And when we reach out and deal with that and can deal with that on the front end, then we have done ourselves good for the future, and i am just immensely grateful for sam hamilton to be a part of the history of austin and travis county and the legacy that he has left us for years to come.

Thank you.

[Applause] being.

thank you all very much for coming out this morning to honor sam hamilton and his widow and his family.

This concludes our ceremony this morning, and again, thank you all for coming.

[Applause] [music playing]

[01:12:26]

[01:18:31]

good morning.

Good morning.

Can I have your attention?

I'm austin mayor, lee leffingwell.

Before we begin our council meeting this morning, I want to say that the city hall is basically full, as you can see.

We've got the fire chief here and she's going to hold our feet to the fire just to make a minor pun there, as far as keeping us legal as room capacity.

But we'll utilize the full capacity of the chamber, the board and commission's room and the atrium, so folks will be able to watch the proceedings such as they are on television outside of the chambers.

So that being said, again, before we begin our meeting we will start with the invocation from rabbi alan friedman, temple beth shalom.

Welcome, rabbi.

Please stand.

>> In jewish tradition, the first of the morning blessings reads, blessed are you, oh god, who gives us the intelligence to distinguish between light and darkness.

Light and darkness is understood as a metaphor for right and wrong, the ways of darkness and light.

If only it were that easy.

[01:20:02]

In reality life and governance involves issues that are rarely black and white but rather matters of gray.

Issues where a multitude of interests of various citizens are impacted in different ways.

So this morning our prayer is that god might grant this council some of the divine wisdom and strength so that they might govern in a way that meets the concerns of all of our citizens and unites our city in a way that reflects god's way, the way of peace and of justice.

And let us say amen.

>> Mayor leffingwell: amen.

Thank you, rabbi.

Please be seated.

A quorum of the council is present so I'll call this meeting of the austin city council to order on thursday, july 29, 2010 at 10:17:00 a.m.

We're meeting in council chambers, austin city hall, 301 west second street, austin, texas.

Begin with the changes and corrections to today's agenda.

Item no. 7 is withdrawn.

45, add the words "recommended by the parks "

item 46 withdrawn.

151, change the sentence to read "conduct a public hearing and consider a request by great gatti's pizza incorporated located at 3720 far west boulevard,

[01:22:01]

suite 101, changing the gatti's to great gatti's pizza incorporated.

88, add as a co-sponsor council member randi shade.

I would note that items 100 and 153 are not part of the consent -- will not be part of the consent agenda and will be heard.

Both of those meetings will be heard together after executive session.

Item 107, add the words "a valid petition has been filed in opposition to this "

129 through 143, time certain, a postponement of these items will be requested until august 19, 2010, emphasizing they are not officially postponed right now, but we anticipate at their time certain of 4:00 p.m. that they will be.

Items 145 and 146 are withdrawn.

At council member spelman's direction, he will recuse himself, city clerk, on items no. 40, 44, and 104.

Our time certain i 30 morning briefing will be the city manager's recommended 2010 bond proposal and transportation bond citizens task force recommendation and a financial analysis

[01:24:01]

briefing.

It is my understanding there's a request to have this briefing after executive session because both of these items have related executive session items that we will cover in executive session.

00 noon we'll have general citizens communication.

we'll take up our zoning matters.

we'll conduct our public hearings and take action as appropriate.

30 live music and proclamations.

The consent agenda for this morning is items 1 through 1 -- excuse me, 1 through 99, with exceptions, which i will read in just a moment, but first I want to read into the record item no.

84'S appointments and waivers to our boards and commissions.

To the board of adjustment, brian king is council member cole's nominee.

Michael von olen is council member riley's nominee.

To the building and standards commission, tim hill is council member riley's nominee.

To the planning commission, alfonso hernandez is mayor pro tem martinez' nominee.

Sandra kirk is council member cole's nominee.

To the solid waste advisory COMMISSION, rom McDaniel is council member shade's nominee.

And to the urban renewal board and drew buchnal is yours truly's, mayor

[01:26:02]

leffingwell's nominee.

Our waivers for boards and commission, approve a waiver of the attendance requirement in section 2-1-26 of the city code for duane lofton's service on the human rights commission.

The waiver includes absences through today's date, and to approve a waiver of the attendance requirement of section 2-1-26 of the city code for allen weeks' service on the comprehensive planned citizens advisory task force.

The waiver includes absences through today's date.

Well, we almost got by with it but it was left off of the time certain listing.

In addition, at 3 3:00 p.m.

We will have our meeting of the austin housing and finance corporation.

We'll temporarily recess our council meeting to cover that meeting and then go back to the council meeting at that time.

So the consent agenda, items -- again items 1 through 99, items pulled off of the consent agenda are as 42, action will be taken after ahfc meeting just mentioned.

45 is pulled by council member morrison.

Those are all of the items that I have noted that are pulled by council members.

Are there any others?

>> Mayor.

council member riley.

I'd like to pull item 58 for consideration after our executive session.

you didn't have your mic on, but I heard you wanted to pull item 58.

That's all I her.

that's right, for

[01:28:00]

consideration after executive session.

after executive session.

Any other items to be pulled off the consent agenda by council member?

Council member spelman.

I'm looking for the item number, mayor.

>> Mayor leffingwell: pardon?

I'm looking for the item number.

>> Mayor leffingwell: okay.

but I can't find it.

I don't see it.

Mayor, perhaps you could help me.

I'd like to pull the resbrake item and I can't find it.

47, I was looking in the wrong place.

47 will be pulled anyway, council member, but I'll put you down, 47 by council member spelman.

You went to all that trouble.

Okay.

The following items will be pulled off the consent agenda due to more than one speaker being signed up for these items.

No. 23, no. 28 and no. 76.

And those are all of the items that I have pulled off the consent agenda.

So we do have several items that will remain on the consent agenda that have only one speaker, so without objection we'll go to those speakers right now, let them

[01:30:01]

all speak and then consider the consent agenda.

The first is on item 13 and 39 together.

Robert farmer is signed up neutral.

Is robert former in the chain -- farmer in the chamber?

We also have mark harrington signed up neutral, not wishing to speak.



Welcome, you have three minutes.

>> Thank you, mayor, city council, and city manager.

My name is bob farmer.

I'm a director of preconstruction services with small glass here in austin.

Small glass has a long history of successful projects with the city and we certainly hold the city as high value as a client of ours.

The reason I signed up to speak for item 13, small glass is one of many firms that submitted qualifications for the new central library project.

We were very fortunate to be one of the three ranked most qualified for the project.

As part of that short list of the firms, we were invited to submit a proposal, a cost proposal that included three elements.

One was preconstruction services, which was our involvement during the design.

The other was a fee for construction phase services, which represents our profit and our overhead.

And third was general conditions, which would have been our cost to manage the project on-site.

It's the result of that proposal that we ask be considered today when you deliberate item 13.

There is a significant delta between small glass's proposal and the next lowest of the short-listed firms of almost \$1.8 million.

We could not find that information in the backup material.

It does represent a significant amount on a project that is suffering with severe budget challenges.

So one thing -- 8 million essentially is money that you'll spend on a construction company that you will no longer be able

[01:32:00]

to use for the project.

We realize that you're approving the preconstruction phase services only today.

However, those additional fees and general conditions will become part of the project later on as a change order to your contractor.

So we appreciate the opportunity.

We were happy to be short-listed.

It's a fantastic project.

The solicitation process was handled very professionally.

We have no complaint about that.

So good luck.

Thank you.

thank you.

We have one speaker on item 20, sharon blythe signed up against.

Sharon blythe in the chamber?

Welcome.

You have three minutes.

>> I'm sharon blythe with the spy switch springs road tunnel coalition.

If item 20 is related to the jollyville transmission main, I'd be very opposed to any kind of funding for that main, and that's all i wanted to say.

Thank you.

thank you.

Item -- item 38, will macleod is signed up in opposition.

Welcome, you have three minutes.

>> Good morning, everyone.

I want to thank you for allowing me the opportunity to speak, the policy is i believe an attempt to satisfy perhaps a small group of people.

[01:34:00]

I have prompted to define it as a small group because we review capital -- when we review capital metro's web site it reveals that over 130,000 daily riders use these services.

It also announces the new policy based on a survey done in july with more than 1,000 people participating in tobacco-free facilities survey.

This amount represents less than 1% of the daily riders.

Surely all of us would not consider this to be an adequate sampling of the daily riders, nor should we draw the conclusion that 66 respondents somewhat support, strongly support a tobacco-free policy.

This is why I'm opposed to item 38, as tax dollars -- it's \$300,000 federal grant, to the -- through interlocal agreement with capital metro transportation authority.

We don't need to be spending money like this.

We need to improve our sidewalks, our -- a lot of our sidewalks are not ada compliant.

We need to focus on that first and then come back later on with this approving item 38.

In closing, I am suggesting that a more in-depth comprehensive study be done, which studies -- consideration of other subjects that have not been mentioned.

Right now it appears that we're overreacting to a special group with their own interesting.

I propose we broaden our scope to consider all but not a few.

Thank you for your time today and I urge you to consider other ideas and approaches.

thank you.

>> Mayor?

council member riley.

[01:36:00]

if I could just macleod's remark.

macleod has raised very valuable points about the interest of those who do smoke and choose to use capital metro.

We've had lengthy discussions about this at the capital metro board, and I want to make clear that cap metro has no intention of taking actions that would penalize smokers.

The effort is to ensure that those who don't smoke are able to use capital metro without being adversely affected by smoke.

This is going to be an ongoing process and this item on our agenda will simply allow the city to work cooperatively with the cap metro on those efforts, and so I think it's very helpful to be reminded about the interests of those who smoke and keep that in mind as we move forward.

But I don't think approval of this item will override any of those concerns.

I think it will allow that conversation to continue.

And at this point -- at this point the capital metro board has not actually approved banning smoking at bus stops.

But that is an item for future consideration, and so that conversation will also continue.

on item 74, john bush signed up in opposition.

John bush.

Welcome.

You have three minutes.

>> The item on eurocopter?

>> That's what it's on.

>> I just wanted to raise a quick point.

We often have meetings to meet with the community to discuss budget cuts, and we're currently facing some very serious budget problems, so I just wanted to bring it to your attention that we're about to spend \$280,000 to repair this helicopter.

There's a lot of costs that are associated with the helicopter that the austin police department has.

I've heard a figure that it costs about \$7,400 to run per hour, so I just wanted to point that out.

[01:38:00]

Next time an array of budget cuts comes along I think we should consider selling the helicopter.

It will keep us from having to pay all these maintenance fees, keep us having to pay for all the gasoline.

It's not very green to fly a helicopter around all day, and it will keep us from having to cut other important programs other people are depending on.

Thank you.

thank you.

Item 85, bill bunch.

Bill bunch signed up for.

Three minutes.

>> Thank you.

This is the sam hamilton item?

Is that correct?

that is correct.

>> Thank you.

Bill bunch, with save our springs alliance.

I just did want to speak briefly in support of recognizing sam hamilton.

I think he'd be very pleased to see that the water treatment 4 site that had been an n holding in the bull creek preserve is now being protected so that we don't have that fragmentation and destruction of the best golden cheek wabler habitat in the world in the upper bull creek watershed.

I had the pleasure of suing sam hamilton [chuckle] not individually, but of course in his professional capacity at fish and wildlife service.

And to his enormous credit, he never took anything personally.

I'll add that folks on the other side were actually threatening bodily injury against sam and his staff, and none of those threats came from our side.

But the other thing he did is he always made sure that his staff did the science.

He protected them from the higher-ups who were pressuring them to change

[01:40:01]

their science, even though it wasn't the right thing to do.

And so that took some real courage and leadership on his part, and thankfully it wasn't held against him, and he progressed in the service and was, as you noted, named the national director shortly before his passing.

So I had a great deal of respect and feel -- count myself lucky that we had him here serving during those years.

Thank you.

thank you, bill, and you're also signed up on 89, which is the related ordinance.

>> Yeah, I'll pass on that one.

90, patrick o'neil is signed up for.

Welcome.

You have three minutes.

>> Thank you, mayor, thank you council members.

I'm here today with others in support of the resolution that the city develop and pass an ordinance prohibiting the sale of publickies and kittens in -- puppies and kittens in stores, prohibiting the sale of these items, puppies and kittens in stores, is a simple and direct way to take a stand against puppy mill cruelty while also supporting the city's no-kill goals.

Thank you.

thank you.

And I'll also note that jean o'neil and jennifer hays also signed up in favor, not wishing to speak.

>> Mayor?

mayor pro tem martinez.

yeah, I just want to make a clarifying point.

It's not banning the sale of puppies and kittens in pet stores.

It's banning the sale of puppies and kittens who are bred to be sold from pet stores, and I think that's

[01:42:00]

pet stores, and I think that's a huge distinction and to be clear about.

We still want to have retail sales but we want them to come from the rescue and adoption groups that we work with on a regular basis.

Thanks.

thank you, mayor pro tem.

The final item -- we have speakers signed up for items on the agenda, 92, Dolores Duffy is signed up in favor, with three minutes.

Minutes.

I assume you're not going to try to talk us out of it.

You're not going to try to talk us out of it, are you?

>> No, I'm just here to make sure you-all vote for it and make sure it passes.

[Laughter] I want to thank you you-all for -- we're here to thank you for placing this on the agenda, because in the 1970s we did not have a museum in east Austin, and now that we have one we think that it's appropriate for these -- this memorabilia to be placed in the Carver Museum, and I'd like to personally thank those of you that's gone along with council member Sheryl Cole to place this on there.

Thank you very much.

I don't have anything else to say, and I don't think you want me to stay up here too long.

But if -- do you have anything to say?

Kirk, I didn't know if she had anything to say.

Yes?

Kirk wanted to say something.

>> Thank you all very much.

Without objection, council, we'll waive council rules and Kirk to speak for one minute.

>> I didn't know I was breaking the rules.

[Laughter] [applause]

>> thank you all.

This is my first time before this wonderful council.

I'm willie kirk.

[01:44:01]

duffy has done a wonderful thing for us in east austin.

She has seen to it that we not lose all of the history that the old anderson high school had made.

We have all kinds of honors that we have done, drama, football, basketball trophies.

duffy has been on this a long time and we appreciate her.

Also, the museum has lots of space, we feel, but we just would need a little appropriation for something for the cabinets for our great, great exhibit, and we certainly would love for you-all to be the first ones there to see it when you-all approve us putting them in carver museum.

Thank you and have a blessed day.

[Applause]

>> thank you.

thank you.

kirk for your community service, and also for the community service of your son, ron kirk, and your daughter sandra, who's on the city's planning commission.

mayor, I have a brief comment to ms. kirk.

council member cole.

I don't think i mentioned to them that the price of this resolution was duffy's sunday dinners for my colleagues.

So we'll just let that go on the record, because were know that is legendary and that ron often comes down just for that.



does that include -- does that include me, council member?

oh, it includes the mayor and the entire council.

all right.

See what we can do.

Those are all of the single speakers that we have signed

[01:46:01]

up on the consent agenda.

So I'll entertain a motion on the consent agenda.

Council member spelman moves approval, second by the mayor pro tem.

Any discussion?

All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye.

Any opposed say no.

Passes on a vote of 7-0.

So we do have a few other items on our agenda today, so as you make your way out, please do so quietly so we can continue our part of the meeting.

So council, without objection, I'll now call up 23, and again, folks, could you hold it down just a little bit?

Cien felder kleinfelder

[01:48:02]

) again, without objection, we'll 23 and 28 together.

Both have several speakers signed up.

So we'll go directly to our speakers.

First is sharon blythe.

Sharon blythe.

Is warren johnson in the chamber?

Warren johnson.

Okay.

Dorothy johnson?

I see you, ms. johnson.

So sharon, you have a total of nine minutes to speak and without objection the council is taking up 23 and 28 together.

>> Okay.

Great.

I'm sharon blythe with the spy springs tunnel coalition.

I found out last night for sure, I guess in marc ott's mind as well as rudy garza's min, that they are going to plow up and destroy our neighborhood as a corner of spicewood springs and lambasas trail for the working shaft of the transmission main.

Item 23 is a commingling of funding for the water treatment plant.

There's a small portion of that item number that's finding the jollyville transmission main, part of that.

It's improper for them to commingle under agenda items, to confuse not only the public but possibly some of you about exactly what they're about.

We have as a company -- as a

[01:50:00]

coalition we have suggested other alternatives rather than jollyville.

We've discussed 620, anderson mill road and 183, according to our analysis would be far less intrusive for the residents, schools and it more than likely will be less expensive when all is said and done with the spicewood springs route.

This morning you had numerous emails from citizens indicating that we were not properly notified of this transmission tunnel.

I have -- I don't know if you got them, but I have copies of some of those emails that they wrote this morning.

There was a serious lack of information coming to the citizens all along until we found out april 20 exactly what they had in mind.

To build a working shaft right at the feet of our neighborhoods.

Why was force ridge put on hold this week by greg metharis or whoever made the decision.

Forest ridge is important to -- they have about a half mile to complete that transmission main.

It does go to the jollyville tank.

It does have enough capacity, in our analysis, to move water out of the plant for a good number of years into the future, without the necessity of filling the jollyville transmission main.

And I don't understand why it was put on hold.

But what you have done in this process, and I want to thank you for that, water utility, you have awakened thousands of people that are unregistered voters now in the northwest section where I live, and we are galvanizing this issue, and we'll make our wishes known come election time.

I'm asking you to please

[01:52:01]

direct the city manager to put on hold the jollyville -- the jollyville main, not approve item 23 funding today for that small portion of that item number, 3 something million dollars for the jollyville main.

Please pull that out of the agenda item, separate it out, and please don't commingle them in the future.

You have an other alternative, which is along highway 620 a 183, down anderson mill to 183.

We found out monday at the open house that this is a long range plan to build another transmission line along that very route, so why did they throw it out?

Because they say it's going to be 44 to 50 million more.

But we contend the spicewood springs road tunnel project will be actually a lot less expensive.

I would appreciate it if the staff and you would review all the emails that you've gotten this morning concerning the jollyville transmission main and the lack of transparency, the lack of notice, because we feel that we -- they did not want us to know because they knew that we would be galvanized against it.

It is improper to build up there because of a number of reasons, the environmental reasons of bull creek, right there within feet, of the noise levels around our neighborhood, many, many of my neighbors work at home.

00 to 5:00 job.

They're high tech people out there.

They just work at home.

And it will destroy their working environment.

It will destroy my living environment, and I'm just an old widow with two grown kids that was very, very lucky to have -- build my home in 1989 there, that I've taken care of and you-all are trying to

[01:54:00]

destroy that environment.

I think you-all got a picture from me yesterday of the four deer, including a off and on, was in my -- fawn was in my backyard and I took that picture off my back deck.

It was a beautiful picture and that's what you'll be destroying if you tear up that neighborhood.

There is no reason to do it, and I'm asking you, split 23 into the plant funding and the jollyville funding and delay the jollyville funding, because we need to study all the alternatives, not just a cursory thing saying, well, it was decided in 1984 we'd go up there.

That's a long time ago before our neighborhoods were ever even developed or even thought of.

So please consider that, and I believe you have the authority on the dais to be able to do that.

I appreciate it.

Thank you very much.

thank you.

[Applause] next speaker on the combined items, 23 and 28 is bill bunch.

Welcome, you have three minutes.

>> Thank you, mayor.

Speaking first on 28, the million and a half to move the big power lines on the plant site.

This should be postponed along with 23, because you still don't really have a plan for what you're doing.

This is still backwards.

You're still doing the studies, the environmental studies, that both local and federal law requires, and yet you're building the plant.

The power line expenditures should cause you to initiate an investigation into the fraud that occurred in the acquisition of this tract, wherein we paid 30-plus million dollars for a tract of land that's worth about \$10 million.

Part of that fraudulent transaction was not identifying this power line

[01:56:01]

easement through and taking account of how much money you would have to spend to move the power line to make the tract developable.

Your auditor's office initiated an investigation.

They shut it down.

They're refusing to release the information that they generated on that initial investigation.

The investigation needs to be turned back on and completed and appropriate action taken to make sure that we don't pay \$30 million for \$10 million of real estate.

On 23, this is groundwater studies, geotechnical.

Some of it is preliminary that should be done before you build the project, some of it is more technical to actually build the project.

In both instances you should postpone that again until you can actually show you can build these tunnels and the plant in an environmentally responsible way.

Just two weeks ago at the environmental board meeting they couldn't tell us about the wastewater discharge they have to dump into bull creek through the bull creek preserve.

The study came out two days later that was completed last november saying they estimate 30 to 270 gallons per minute that they're going to have to pump out of the tunnel, treat to some undesignated undetermined standards and then discharge into bull creek above our bull creek park and above the bull creek nature preserve that's part of the bccp.

That's just one of a range of questions that are coming up that should have been answered.

They have to have a concrete manufacturing plant on-site next to these folks' homes.

That was never disclosed to the public, never considered by this council when you decided last fall to go forward with this.

[01:58:01]

There are so many red flags.

It's time to step back, reevaluate and not continue on this course of bureaucratic inertia, escalated commitment, whatever term you want to use, it's good money after bad.

Thank you.

thank you.

[Applause] next speaker is roy whaley.

Roy whaley.

>> Howdy you-all.

My name is roy whaley.

I'm the vice chair of the austin sierra club, and when I was a kid I always heard that you don't get out of a hole by continuing to dig.

Four of you-all have decided that this is still a good policy.

So I brought you a little helper today.

If you-all are going to keep digging a hole that you can't get out of -- I know it's plastic.

Surprisingly security has a policy about bringing sharp metal objects into city hall.

Not sure why.

But anyway, if you-all are going to keep digging a hole -- and that's what you're doing.

You're digging a hole for a project that we don't need.

Lcra was quoted to date, our water supply will decrease and in part this will be due to climate change issues.

They go on to say, so we need to factor that variability into our planning.

Wtb 4 does not manufacture water.

It doesn't make water.

It treats water, a decreasing supply.

I know that part of the argument is, is that we have to prove that we have a solid water supply to attract business, clean water, treated water, but if we don't have water, business won't come here and they will leave, and we have to find a way to conserve the way that we have.

I applaud the mayor for his public campaign to encourage water conservation, but we need to do more.

We need to change the way we look at our water supply.

We have to do this, and it's the hardest thing to do, is to look at new problems in a new way and not try to apply the same solutions to a new problem.

And the new solutions will be water recapture, reuse, packet plants, on-site use, and that's going to take money, and we're going to wind up having to do it eventually.

So we need to be doing that now rather than to continue to dig the hole and spend more money.

I ask you not to do that today.

I'll say this, as a realtor, if I ran a transaction the way this is being done, where, oh, by the way, i meant to tell you about the termites, I wouldn't be in business very long.

I would be in court.

And so I would ask that we step back and think about this even more, reconsider, say no today.

Thank you for your time.

I appreciate it.

Do you-all want this, by the way?

[Laughter] no?

thank you, roy.

I'm sure -- I'm sure somebody up here can use it, if you want to leave it.

Those are all the speakers that we have.

I'll entertain a motion on items 23 and 28 combined.

>> Cole: so moved.

council member cole moves approval, second by the mayor pro tem.

Any discussion?

All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye.

Any opposed say no?

>> No.

motion passes on a vote of 4-3 with council member riley, council member morrison, council member spelman voting no.

That takes us to item no.

45, Pulled by council member morrison.

>> Thank you, mayor.

This is the item to approve the agreements between the city and the wise to move forward on the north austin rek center, and the reason i pulled it is because i wanted to have just a shofort discussion about the community representation and participation in the design.

There is a design committee and so maybe I could turn it over to director hensley and she could talk a little bit about that.



>> We have an opportunity to enter into a partnership with the ymca, and through our negotiations, once it was approved for council -- by council for us to move forward, we talked about creating a economy of city of austin parks and recreation staff, two assistant directors and the project manager from public works and then three individuals from the y.

It's been a request to have a member of the community, which seems very appropriate, to be involved with this committee, ex officio capacity, and we think that's critical, and after visiting with the y they also agree.

So this team would work to put together the plan of how this facility would look, the areas -- the design of it, and then we've made a commitment through our parks board meeting the other night, the y representatives from the board came forward and talked about this being an effort between the ymca, the city of austin and certainly the community, and that each month we would go back to the community to give updates on the design, on the progress of the negotiations and where we are so that they are fully engaged in making sure that this is truly a three-way win, win, win.

>> Morrison: great.

I appreciate that.

So with that what we're really talking about specifically is that the agreement for development and construction under the design committee, that we would add in there language that says that there will be also an ex officio member from the northwest austin civic association.

>> That's correct.

>> Morrison: okay.

So with that change I'd like to make a motion that we approve item 45.

council member morrison moves to approve item 45 with one small change.

Second by council member spelman.

Further discussion?

All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye.

Opposed say no?

Passes on a vote of 7-0.

Thank you.

>> Thank you very much.

without objection, council, we're going to take up item no.

76, Which has only three speakers, and then go back to 47, which speakers.

76 pulled for speakers.

First speaker is heather faz faz -- fazio, signed up against.

Heather fazio.

Heather fazio evidently not in the chamber.

>> I'm here.

well, where are you?

You're supposed to come up and speak.

All right.

Welcome, you have three minutes.

>> Good morning.

I won't need that much time but thank you.

My question is this grant is for two robotic vehicles, apparently they're bomb sniffing vehicles.

My question to the council is how many automatickites have been harmed because of -- austinities have been harmed because of bombs in the last ten years?

Anyone?

I don't know.

I'm asking, because if we're approving this much money to be spent on bomb sniffing vehicles, robotic vehicles, robo cop, surely someone has been hurt and we need to protect the public, right?

>> Mayor?

mayor pro tem.

ma'am, I don't know the number, if any, have been hurt, but I think that's the whole point, is we're trying to make sure that no one gets hurt.

We do have numerous cases, though, at abortion clinics, at our courthouse, at different facilities where our bomb squad has had to go in and remove an item that --

>> they effective -- was it a bomb or thought to be a bomb, but that takes an individual dressed in a bomb suit.

If we can use a nonhuman element to remove the threat, I think that's even safer.

>> Of the members on the bomb squad, how many have been hurt because of a bomb.

>> I don't know.

>> So no one has been hurt and -- could I ask that you go ahead with your three-minute presentation?

>> That's all.

Thank you.

>> Mayor leffingwell: uh-huh.

Thank you.

Next is debbie russell.

Debbie has three minutes.

>> Council, mayor, I am public safety issues aside on this item, I just wanted to mention we do have a city for peace resolution, northrop grum and is a major war p ear and we're -- we have that city for peaceful resolution.

I would have hoped it meant something when it was passed a few councils ago.

And I thought that it represented our -- our values here in the community.

And also the other aspect of course is this is another no-bid contract, and, you know, that's what the department of defense does, and I don't think we want to be emulating that.

There are other entities out there that do make equipment to detect bombs.

Thank you.

[Applause] next speaker is john bush.

>> Hello, john bush, and i want to let you know i'm speaking on behalf of myself, not texans for accountable government on this one.

i've been speaking with commander gay about an alternative, and the reason we're still going with this is because we already have bomb sniffing robots that are north of grumman and they don't want to have to retrain the officers.

But i have a slide show.

This is the profits from northrop grumman.

If you notice they coincide alongside the war, with the the war in afghanistan and everything.

But i'm going to show you pictures and i want to remind you because the media not doing it nowadays, about the cost of war.

Right now it's up to a trillion dollars, 22,392,003,952, with 47 lost in iraq, 973 in afghanistan.

Doesn't include those returned home and committed suicide or those who returned home from wounds and died on american soil.

The war getting worse and worse.

i'm sure you saw the leaked video recently of the journalist being murdered in iraq not to mention the afghanistan leak.

It's far worse than you would believe.

They're doing aerial drones murder in pakistan, murdering millions.

They're escalating the rhetoric for the war in iran, so in 2006 i was very excited that the democrats took control of both houses.

i thought they would be able to put an end to this war.

i knew better when barack obama took office.

i knew he would explait the war.

Others are saying if you don't like the war stop paying for it I don't have that choice with my income taxes but you the city council today has the choice to not give \$56,000 to one of the world's top three defense contractors who earns a large majority of their profits from what ends up being the innocent murdering of civilians.

I ask you the city council, this city, this body, I hope many of you-all are against the war in afghanistan and in iraq, and now you have the opportunity to demonstrate that to we the people.

I feel powerless on the federal level to do anything against the war, that's why I don't.

And it hurts me to say that, but again here at the local level I have the opportunity to look you guys in the face and I hope you're looking at these pictures and images, because I wouldn't be able to vote for this knowing that one penny could go to that bomb right there, the b 2 bomber that northrop grumman makes, and that's one of the biggest weapons of mass destruction we have in the world.

So I urge you -- I spoke with commander gay.

Again, they're choosing this northrop grumman, because the police bomb squad, they already trained with northrop, so that means you continue to purchase these from a war mongering profit yee.

User.

I hope yo profit'.

I will you'll consider delaying this.

[Applause]

>> what you just heard is the maximum demonstration that we'll allow in this chamber for the rest of the day.

So hold it down.

So hold it down.

Any discussion or motion on item no. 76.

Council member spelman.

nobody wants to move approval of an item which is absolutely necessary to the austin police department.

In the face of such an ovation I'm not happy about the fact we have to get this from a war profiteer like northrop either but we have to get bombs out.

So I move approval, mayor.

motion by council member spelman.

And I will second that motion.

Any further discussion?

All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye.

Any opposed say no.

Passes on a vote of 7-0.

47, pulled by council member spelman.

We do have a number of speakers, council member, but you're welcome to -- okay.

We'll go directly to the speakers.

First is steven sheldon.

Steven sheldon.

Is robert laball in the chamber?

Robert laball.

Rolio dominguez?

Don't see him.

Robert heath?

So none of your people signed up to donate to you are in the chamber.

Our rules say they have to be in the chamber so you have three minutes.

>> Thank you, mayor, thank you council.

I don't even think I speak for only three minutes in my speak, so this is a challenge.

I'll try.

we'll help you.

>> I certainly can do a slide -- can't do a slide show in three minutes.

My name is steven shelton.

I work with the exarpter , I'm from georgia.

I represent over 500,000 members in the united states and in that capacity i travel the entire country.

I've been all over texas and only been to austin -- came to the austin the first time a month ago.

And I will confirm for you austin is weird and that is also why I fell in love with austin so quickly.

This -- you heard the rabbi this morning say that sometimes it's difficult to tell the difference between light and dark.

This is not an issue where it's difficult to tell the difference between light and dark.

If you've ever worked in 100-degree weather on a construction project you know how ridiculous it is to expect someone to do that in a healthy, safe manner without a break at all, for water or bathroom.

I've done it, I've represented workers who have done it.

It's reasonable, and the only thing that I ask is that you guys keep austin weird and give us a break.

And for the first time in my life I would like to yield back the balance of my time.

Thank you.

thank you.

Next speaker is tom mandistat.

Welcome, you have three minutes.

>> Thank you, mayor.

Thank you, council members much my name is tom vandzerstat.

I'm a member of the congressional church in the university district.

3 Blocks from 21 rio grande where three workers tragically fell to their deaths las and where some contractors have been accused of wage theft to the tune of tens of thousands of dollars.

The robert that ut and workers defense project published last year brought to light a number of very disturbing issues in the construction industry, including wage theft, which is quite rampant, lack of safety training for workers, cutting corners on safety, refusal to grant rest breaks, not providing water on these hot texas days.

And I understand that the city council is somewhat limited in what you can do and how you can respond to these because of osha and federal regulation, but this is something you can do.

You can pass this ordinance to mandate that workers get the rest break that they need for humane treatment, and if you pass this it sends a message far greater than the rest break itself, it sends the message that austin is serious about making sure that workers here are treated in a just, dignified humane way.

So I urge you to support this.

Thank you.

[Applause]

>> hang on, just a second.

The next speaker is philip lauhan.

Is philip here?

[One moment, please, for ] but what we're asking you guys today is if you will pass this ordinance, allow all the workers to have a rest break.

And this ordinance here -- there's an issue, I guess, on how much time or who's been able to come to the stakeholder meetings and that.

We've had several stakeholder meetings.

There were issues raised at the last minute to come down and have a discussion.

This is an emergency ordinance and I believe we do need it passed immediately.

Thank you.



[Applause]

>> Martinez: Our next speaker is mr. savio.

You will have three minutes.

>> Good morning.

My name is harry savio, home builders of austin.

Our members build approximately 95% of the homes built in our metropolitan area.

For the three minutes I would like to address first the process for this ordinance and then I'll take whatever time remains for the resulting document.

A statement of need, the first time that a prospective ordinance came to our awareness was earlier this month when the city council passed a resolution.

But the ordinance itself was first published, first became available to us monday morning, three days ago.

The ordinance -- the ordinance that's coming forward tonight -- or today for passage, it was hidden on the agenda.

Councilmember spelman, you couldn't find it, under public works even though it expressly addresses private employment practices on residential and commercial buildings.

There's been no opportunity to provide -- or to better craft a better ordinance through public participation with the public works staff, a citizen committee or city council.

The resulting document that was published monday has serious shortcomings.

Now for the ordinance, the ordinance defines employer in a manner that the subcontractor or trade on the job site has the primary responsibility.

That is in fairness, in general compliance with state and federal wage law.

But remember, there are 350 workers that step on to the average residential job site.

Does that mean that each and every company needs a sign?

Can one sign be posted at a central location?

What should that location be?

These are issues that we can work through but not as the current ordinance is currently drafted.

The ordinance establishes penalty as criminal, criminal penalties if you fail to post a sign.

Now, if I'm running a crew all over austin, I may have a job -- I maybe have a crew on the job site for an hour and the crew chief forgets to post signs or forgets to do that, even if I've been notified before, that means I'm facing a criminal penalty.

That's not right.

What about remodel construction?

How do you deal with that?

How do you cope with the sign requirements on that and what should those signs be?

Even the civil penalties we think are unfair.

\$100 To \$500 is not that much, but that's on a cumulative effect, a per day basis and these are the small contractors, the small guys that go out and do the work on a day-to-day basis.

Rest breaks are issues for osha or they would have been addressed already.

There are good reasons and top level osha employees will tell you there are reasons why they did not address rest breaks.

I urge you to step back, take a critical look, take a critical eye, an objective eye to this ordinance.

We can sit down and craft something that will achieve your objectives.

[Buzzer sounding] we urge you to do so.

Thank you.

>> Mayor Leffingwell: Thank you.

Emily timm.

>> [Inaudible]

>> Mayor Leffingwell: You may.

Greg kasar.

[Applause] with an additional three minutes donated by emily timm so you have six minutes.

>> Thank u good afternoon.

May name is greg kasar parted of the workers defense project.

On any given day we regularly receive at least a dozen phone calls from construction workers all around austin who have either been denied their wages or have been injured on a job site because of neglect on the part of their employer, neglect to provide adequate safety equipment, rest breaks or a safe and healthy environment t recent study published by the university of texas found over 40% of construction workers in austin receive no rest breaks.

These facts are shocking and those phone calls are shocking.

And we may not want to believe them, we may not want to believe that this is the harsh reality that the people who build our very city have to deal with on a day-to-day basis.

We may wish to ignore their voices and ignore the facts.

This would be convenient but sometimes the truth just stares you in the face.

Just this tuesday, two days ago, I was speaking with a construction worker, his name is jose, he was being rushed to complete a project at a home.

He was working doing different things, different jobs around that home, and on one day in april he was being rushed by his employer, he had not received rest breaks that day.

He said he felt dizzy, tired and thirsty.

When he stepped on a plank on a rooftop and fell two floors on to the ground.

He broke his arm and he injured his shoulder so badly that he required surgery.

He had to get a ride to our office because he recently sold his car in order to pay his rent payments because he's not been able to work.

He told me he doesn't know how he's going to pay for next month's rent.

No rest breaks affects the people of austin and sometimes the truth just stares you in the face.

I was speaking to another one of our construction workers and I asked how does it feel to work those long hours without any breaks.

And he told me, greg, it feels like you want to die.

A year ago that's exactly what happened in austin.

Jeffrey wellenburg died on a construction site.

Heat exhaustion is easily preventable by two things.

Sitting down with a break in the shade and having some water.

Sometimes the truth just stares you in the face.

But we do know here in austin there are many construction companies and many employers that do provide rest breaks and that's great.

And this ordinance, they won't have to change a single practice, they won't have to change anything they do.

As a matter of fact, this will benefit those employers because they won't have to worry about competing with other employers who try to cut corners by denying their workers the most basic of needs.

If an employer who doesn't give rest breaks continues to not give rest breaks, they will get a letter, they will get a warning in advance so they have time to change their practices.

However, if they continue to threaten their workers' safety and health by not giving rest breaks, then we believe that as a city we have a responsibility to protect our people, to protect the people who build this city.

So I ask that we make this decision today.

There are people out there working on construction sites today that we know of that are not receiving rest breaks.

They are the greatest in this process, they are the ones most affected by this ordinance.

So I ask you, let's not let them down.

Thank you.

[Applause]

>> Mayor Leffingwell: Thank you.

Next speaker is thomas archer.

>> Thank you for the opportunity to address here today on this important issue.

My name is tom archer, president of homeowners of texas, we're an advocacy group for homeowners throughout texas and our primary objective is trying to level the field for homeowners in this state with home builders, insurance companies and other providers that they have to deal with.

The reason that we feel this is a very critical issue to the homeowners of this state is that it is very important that workers be given the rest breaks and the water that they need in order to protect their health and safety and to ensure that the job is completed as it should be.

Right now there is no regulation of home builders in the state of texas, as we're all aware.

There is no licensing, there is no regulatory oversight.

And therefore it becomes imperative for citie such as austin to take whatever steps that you can take to try to protect workers and make sure that they work in an environment that is safe and that their health is not threatened.

And as we know, only 45% of workers in the austin area work from employers, worker compensation, texas is the only state that does not require workers' compensation, and this is an important issue here because due to the lack of this there are no insurance inspections on these job sites to make sure that safe working conditions are -- are in effect.

There is a critical shortage of osha inspectors.

Esstihy action today these problems will continue unabated and i strongly encourage you to vote in favor of this proposed ordinance.

Thank you very much.

[Applause]

>> Mayor Leffingwell: Thank you.

We have a number of other speakers who are signed up in favor and your names will be entered into the record by the clerk.

>> Mayor, there's one more gentleman, armando guerra wanting to speak.

>> Mayor Leffingwell: Just signed up now.

Armando guerra, come on up.

[Applause] [speaking in spanish]

>> thank you for allowing me to speak.

I'm armando gary repair are.

>> My name is armando guerrero and I represent a group of construction workers.

I have more than 18 years of experience working in the construction industry in different areas.

I've been working here in austin for two years now.

And I've seen a big difference that here in austin workers don't get rest breaks.

And here in austin with the high temperatures in the summer, it's a necessity that workers receive rest breaks.

Many times the temperature gets well above 100°.

And someone who is working out there under the hot rays of the sun.

It's necessary to have a rest break in order to refresh yourself and to drink the water that you need.

I myself have felt sick because of the exposure to high temperatures without rest breaks.

And we need that you pass this ordinance and that you assure the well-being of the workers and guarantee that workers are safe on the job with this ordinance.

Thank you.

[Applause]

>> Mayor Leffingwell: Thank you.

I believe that's all the speakers we have signed up who wish to speak.

There are others who are willing to answer questions, all signed up in favor but not wishing to speak, and those names will be entered into the record.

Councilmember riley.

>> Riley: Mayor, I do support this resolution for all the reasons that the speakers have identified, but I would like to offer a few suggestions in order to address concerns that have been raised, if I may.

And by the way, this ordinance language has been provided to the city clerk.

First I would like to move to amend section 451 subparagraph 7 to define the term establishment to mean a single physical location to which employees report each day.

Second, I move to amend section 453 subparagraph a to require that the signs be posted at the establishments.

This will assure the rest break signs will appear at the same location at other signs required by federal and state law.

I move to amend section 452 subparagraph b to replace indoor secretarial or administrative activities with nonstrenuous labor in a climate controlled environment.

We have had conversations with home builders and others on this item.

I think they have raised legitimate concerns and I'm hopeful these amendments will help address those concerns.

So with those amendments, i would move approval.

>> Second.

>> Mayor Leffingwell: OTION To approve -- and you say you have the new language?

Furnished to the clerk.

Of an amended ordinance.

Everyone is satisfied with that.

Second to that motion by the mayor pro tem.

Is there any further discussion?

Councilmember morrison.

>> Morrison: I'm fully behind this also and I would like to hopefully add a friendly amendment to ask that staff report back to us in six months on -- to let us know if there are concerns or things that could be adjusted that aren't quite working right.

>> Mayor Leffingwell: Additional direction in the form of a friendly amendment, is that acceptable to the maker and the second?

>> Riley: Absolutely.

>> Mayor Leffingwell: Okay.

Any further discussion?

Mayor pro tem.

>> Martinez: Thanks, mayor.

I just want to thank everyone that worked on this with us.

I realize that there are still some concerns out there, but i do want everybody to continue the approach that we've taken and that we keep working on this and moving forward.

If there are improvements that can be made and enhancements, then we need to be open to that.

The ordinance does have criminal penalties, but that's not the intent of our ordinance.

In my opinion.

That's not my intent.

We want compliance and we realize that the vast majority of folks do comply with providing rest breaks.

But there are those cases where they are not provided and so that's why this piece of legislation is important to the city of austin and to the workers in austin.

I would just ask that we all stick together moving forward.

If there are concerns, if there is noncompliance with the ordinance, that we work together to bring folks into compliance as opposed to harming them in a punitive manner that ultimately would hurt the workers, I believe.

So I just appreciate the approach that everyone has taken and I thank the workers defense project, home builders hispanic contractors, all who have been involved in helping us get to this point.

Thank you, mayor.

>> Mayor Leffingwell: Anything further?

All in favor say aye.

Any opposed say no.

Passes on a vote of 7-0.

[Cheers and applause] so council, those are all of the items that we can take up at this time.

We do have some other items, but other things have to occur before we take them up.



So I would suggest that we now go into executive session for a limited period of time.

We'll have to take it in two bites today.

So without objection, the city council will go into closed 071 of the government cold to take up two items.

Item 101 concerning the proposed ballot language for THE NOVEMBER 2nd, 2010, Election, and item number 153, the addendum item which concerns the financial analysis of that proposed bond election.

Is there any objection to going into executive session on the items announced?

Hearing none, council will now go into executive session.

[Rumbling] Announcer: What if a disaster strikes without warning?

What if life as you know it has completely turned on its head?

What if everything familiar becomes anythi but?

Before a disaster turns your family's world upside down, it's up to you to be ready.

Get a kit. make a plan. be informed today.

>> Mayor Leffingwell: We are out of closed session.

We took up and discussed legal issues relating to items 101 and 153.

No action was taken.

We'll now go to our noon citizens communications.

First speaker is daniel llanes.

Welcome, daniel.

You have three minutes.

Your subject is gratitude for arts funding in austin.

>> How are y'all?

A lot of times I come and complain to you and today i want to express my gratitude actually for the support of art and culture in the city of austin.

I am a cultural benefactor with the city of austin.

I just completed my 10th year and hopefully I've been approved for my 11th year coming up.

The cultural contracting process and the wisdom of recognizing the arts, supporting the arts in austin and I'm very grateful for the understanding that the arts in austin are not only an integral part of our culture but that they are also a part of the economic engine that creates the quality of life that we all enjoy here.

As a cultural contractor, i have the project called earth, sky and you project and it's three components.

One, innovate it arts, arts education and community arts participation.

This cultural contract allows me to extend my personal work into solo work and allow artistic expression and opportunity to other artists which has been important to me and I'm glad to see the city of austin move the cultural arts to economic and redevelopment and growth because that's a recognition that we are part of the economic engine.

I'm also proud to say that the majority of my ensemble contains black, white, brown, asian-am african american and this illustrates the incredible talent in austin and I'm hopeful the process continues to support the vast diversity we have here and not just the mainstream european arts.

This contract has also allowed me to establish annual events that are now in some quarters considered part of austin tradition.

They range from cutting inch performance at the daugherty center which for the last tone years I've been able to produce all the way to continuing performances in workshops, libraries and schools throughout austin.

To ongoing annual community events which range from a day care center called the open door day care center where 35 to 40 families every year have an earth culture thanksgiving there.

So they call me back every year and that's become part of our tradition.

Also another tradition is at the state capitol rotunda on the third sunday of april.

I bring together all the that we've worked with and we create a beautiful tapestry that expresses austin culture.

I want to express my gratitude and particularly to the daugherty arts center russell wiseman and his staff there.

They have always been welcoming and very cooperative and doing their best to do my performances.

[Buzzer sounding] lastly I want to thank the cultural contracts division.

Mr. kitch and his staff.

And I thank you all for supporting the arts and hopefully I'll see you at one of my performances one time.

Thank you very much.

>> Mayor Leffingwell: Thank you, daniel.

>> I know it's rare.

>> Mayor Leffingwell: Next speaker is sylvia mendoza.

The topic is city issues.

>> My topic is about city council going against arizona and not supporting that state on illegal immigration.

Do you know know what the definition of illegal is?

It is ban forbidden, not permitted, unjust and unconstitutional.

Illegals shouldn't be here.

We now have more pollution, crime, traffic and diseases yet less benefits which americans were initially entitled to.

Do you know that an illegal who becomes a resident is eligible for an american old age security, they would only have to work for ten years.

That means they could start working at age 50 or 52 and work until age 62.

While most americans start working at age 18 or younger and then have to contribute for 30 or 40 years until retirement age.

But get this, there is another fund where an illegal who becomes a resident will not even have to work for one day and can still get social security.

Call 1-800-fed info.

Do you know how h1n1 virus came in?

Read between the lines.

I could tell you about each and every one of us now having a shorter life span because of the additional pollution.

In addition, each and every within of you will automatically be losing two to ten years or more out of your life because time stops for no one.

You cannot escape it.

Remember, americans are victims and one of your loved ones will probably be involved or even be killed in a crime committed by an illegal who wanted a better life.

Do you want to be one of those victims?

As city council you are not qualified and you are out of your element with this.

There is a right way to do this and you are slapping those people in the face.

So don't mess in state or national business which you don't know unless it is for the benefit of the american people.

We might not mention local business like we've [inaudible] because spies are everywhere and people are always watching.

>> You have 17 messages.

Message 1.

Message 4.

Message 4.

You have 17 messages.

Message, message, message.

3.

>> This is for sylvia mendoza, this is lane at the office of senator john cornyn in washington, d.c.

Senator cornyn is opposed to amnesty as well as [indiscernible] and opposes 1739 as it is right now.

It's being considered on the floor currently.

He will vote in accordance with that.

If you have any further questions -- [beep] and I knew -- [inaudible] but it seems you are not.

Lastly, larger, it seems we have traitors in our midst.

[Applause]

>> Mayor Leffingwell: Next speaker is rae nadler-olenick.

Topic is water fluoridation.

You might have to adjust that microphone.

>> Good afternoon, mayor leffingwell and councilmembers.

A lot has happened lately.

On july 1st celebrated natural health writer mercola formally announced his commitment to ending water fluoridation nationwide.

Further he showcased austin as one of three places with outstanding anti-fluoride movements underway, the other two being san diego and ontario, canada.

It's quite an honor to have created such a buzz with zero help from the statesman and local t.v.

The next day fluoride free austin experts met with the direct earth of the austin-travis county health department, his chief medical officer and austin water utility employees to discuss possible ways of warning the public about the harm of mixing infant formula with fluoridated water.

Health departments elsewhere including the state of vermont have already taken it as a goal step.

Linda greene and I have just returned from the conference in new york.

The fluoride action is the premier organization opposing water fluoridation throughout north america.

There we met a lot of very smart people with very good ideas.

They included fans director paul conet, a chemistry professor at saint lawrence university.

He has a book coming out soon called the case against fluoride which summarizes 80 years of fluoridation science and politics in a concise, readable way.

He will be visiting austin this fall and will welcome opportunities to engage with the public including city officials.

As public resistance to water fluoridation builds, and it is, I would ask that the city council follow its own environmental board's recommendation of last august 16th and december 2nd to convene an impartial task force to revisit the subject.

This is already been successfully done in other cities like junco, alaska.

A truly independent study group could shed light on the conflicts of interest within organized dentistry and medicine that keep this misguided practice in place.

Only two votes are needed to set such a task force in motion.

I urge you to do the right thing.

Thank you.

[Applause]

>> Mayor Leffingwell: Thank you.

Next speaker is gary thomas.

Topic is child identity theft.

mayor and members of council, thank you very much for allowing me to come and speak to you about this.

What we consider to be a very salient topic today.

I don't take that lightly.

On the subject of child identity theft, I don't think there's an individual in this room that is not fully aware of identity theft.

But when it comes to how it ravages and damages the lives of children, it's very, very little information in the public domain for that.

Every now and then you might get a news blurb or something like that, but because of the information that you see there on that chart right there, that pretty much explains why it is that this is a very terrible thing that kind of hides under the cover of a lot more visible crime.

So if I could read to you right here, the federal trade commission doesn't specifically track identity theft.

What they do have is statistics from what they call other departments to do.

No accord to robert [inaudible] the leading identity theft authority in , his words are it's almost impossible to catch a criminal conducting themselves anonymously on line from all over the world.

According to julie ferguson, she says it's a new crime and kids haven't turned 18 in math so we can't know the total impact.

According to asure answer signed up in favor, their words are incredibly these numbers are very conservative since parents typically don't monitor their children's credit and they should know because they commission add study on how many parents actually know what's going on behind the scenes in terms of their children's private records.

And as a 500 case study they did, they returned a zero, and that was the first time since they've been doing studies on children's family that they got a zero, and that zero is essentially how many parents knew about their children's personal records.

Okay, now, as part of kid gloves, what we do is we -- we're banging pots for the opportunity to go to schools, organizations, foundations, clubs, anyplace where there's pre-teens and teens and educate them on our nickel on how it is they can safeguard themselves against this threat.

Now, we also believe that if child identity theft looked like the slide you see right now, everybody in here and their children would be protected from it.

But -- please, slide.

Since it looks like that for character and criminal, social security, driver's license -- I'm sorry.

Financial, medical.

Since it looks like what you see in that slide there, it doesn't get a whole lot of attention.

But according to the federal trait commission, one child in every classroom is suffering from identity theft and doesn't know it.

But if we had one child in every classroom suffering from one of those debilitating diseases, we would consider that very, very important at the least and almost an emergency at the most.

Last slide.

That pretty much outlines what I wanted to speak to you about today.

As I said, we are seeking every available opportunity on our nickel to educate the children on these perils.

[Buzzer sounding] that beep means I'm finished already.

>> Mayor Leffingwell: Thank you, gary.

>> Thank you.

>> Mayor Leffingwell: Next speaker is linda greene.

Topic is fluoride-free austin to save more than a million dollars a year.

>> Thank you, mayor and city council.

Last night when I pulled up the website for city council to see what number I was on the list, I was overwhelmed by the information and issues that you have to deal with all the time, and I appreciate you letting us come up before you.

And my intention is that if you would just -- four of you would vote fluoride out of our water this would be one issue you wouldn't have to deal with and -- [applause] it would lighten your load.

As rae said, we just came back from an amazing international conference people attended from new zealand, england and canada and we are not going away.

paul kanat who -- I forgot his but he's been teaching at saint lawrence university for 20 years is coming out with a new book, as rae said, the case against fluoride.

This is coming out in october.

We're also making a movie and austin is going to be in this movie.

And austin's failure to -- the media's failure to address this issue will probably be included.

Everybody at this conference was interviewed.

We've talked fluoride strategy morning, noon, night, breakfast, lunch, dinner and dessert and I'm going to leave you with a lone from a d.v.d.

Called professional perspectives on fluoride.

Over 2800 professional scientists, doctors and medical people have signed on to get fluoride out of our water.

And the way we can save millions of dollars is we have to take a look at the product that we spend this money on, possible spills, insurance, the cost of delivering this toxic chemical fluoride waste from florida, and the countless numbers of diseases that result from ingesting fluoride.

And one of our big issues is you are drugging us without our consent.



Fluoride is found in -- [applause] -- antidepressants, it's found in numerous antidepressants, it's found in some antibiotics, and one of these days some city is going to get a class action lawsuit if you don't just get rid of this toxin because you are drugging us without our consent.

You are adding poisons and every dose does not fit every human body.

The cda and the ada say babies should get zero fluoride in their water.

And this conference was called organizing to win, what works and what doesn't.

And there have been people working on this issue for over 35 years.

We have a huge, huge amount of evidence that shows that this toxic chemical should not be in our water.

We're wasting our tax dollars.

[Buzzer sounding] and the national resource research council is a book that you need to also take a look at so I'm going to loan these to you each one I'll bring to your offices later today and I really appreciate your attention to this matter.

>> Mayor Leffingwell: Thank you, Linda.

[Applause] next speaker is Norman Kieke.

Let me know if I mispronounced that.

>> Now we're on.

Good afternoon, mayor, mayor pro tem, city council.

My name is Norman Kieke, I'm the chair of the Austin Mayor's Committee for People with Disabilities here in Austin.

The Mayor's Committee is a group of seven civil appointees.

I'm appointed by Councilmember Morrison.

We are charged with advising the city council on matters related to Austinites living with disabilities.

We accomplish our charge through a number of initiatives as well as interaction with city staff and various city departments.

The work of the Mayor's Committee is supported by our staff liaison Dolores Gonzalez back here behind me, the City of Austin A.D.A. coordinator.

We all know dolores well.

July 26, just a couple days ago, was the 20th anniversary of the signing of the americans with disabilities act.

This anniversary has provided an opportunity across the united states to advocates retell their stories of life , how things have changed, and where we still need to make improvements in accepting people with disabilities into the mainstream of daily living.

Stories that I've heard of life before the a.d.a.

Involved being told by a theater manager that you and your wheelchair had to leave as your presence constituted an obstruction and hazard.

It involved being transported to public school in an ambulance because of lack of public transportation.

Having to go home from school during the day in order to use the bathroom for lack of an accessible bathroom at a public school.

Losing your wheelchair when parked on a slope and you pull your wheelchair out and you watch your chair roll down the heel.

The inability to sign a document on your own.

This is just a small sample of the stories we've heard.

We are fortunate to live in austin, a haven for people with disabilities.

Still with all its amenities and notariety and awards including a few years ago being named one of austin's most -- unof the united states' most accessible cities, we still have a long way to go.

As an example, later today here in this very room we will present our 2010 access awards.

Only 20 nominations, only three winners.

We're also including six honorable mentions.

It's very difficult to find a fully accessible facility in the city of austin.

That will take place later today here at city council.

The city does have some remarkable programs for people with disabilities.

I'm sure you are all aware of some of these.

All of them.

Parks and recreation, access projects, the summer youth employment program, an incredible effort hiring youth with disabilities during the summer.

The architectural barriers removal program which has been around austin almost 30 years now.

Financial support of nonprofit agencies serving people with disabilities.

[Buzzer sounding] these are all programs in close communication with the mayor's committee.

Our own mayor's committee activities keep us busy all year long.

Job fairs, our access awards, in october our employment awards, another great opportunity recognizing the achievements of people with disabilities.

The mayor's committee looks forward to continued service to the austin city council as we strive to support --

>> Mayor Leffingwell: Norman, that buzzer you heard a while back, that was three minutes.

Please wrap up.

>> I'm done.

Thank you very much.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: Before you go away, norman, I just want to make sure that I have the opportunity, I'm sure everybody up here, to thank your committee for all the great work and along with dolores because you guys do a lot to really make things happen.

>> Thank you very much.

[Applause]

>> Mayor Leffingwell: Next speaker is babs warren.

Topic is water fluoridation.

If we would just get rid of that fluoride, we would save nine minutes today alone.

[Cheers and applause] mayor, city council, i really appreciate that the city council opens with a prayer from a local minister.

I too would like to begin my speech --

>> Mayor Leffingwell: Babs, pull that microphone down.

Q.can you hear me now?

I wanted to thank you all for opening your -- some of your sessions with a minister and i would like to be able to say a prayer for this group of people.

Dear lord, please help these people to see the importance of getting rid of fluoride.

I do not give my consent to be drugged by fluoride.

Please help them to absorb what I learned from david rockefeller and dick cheney in a video made in secret at a meeting in london, england.

David rockefeller talked about the -- this is when I was in MY 30s.

I'm 77 years old, y'all, I've seen all of this.

I've known about what they are doing right now.

I learned about it in the '60s AND THEY ARE DOING IT And you can stop it.

You've got to stop the fluoride for one thing, but we've got to stop a whole bunch of stuff.

They are putting poisons in our food.

Dick cheney -- first of all, rockefeller talked about there are 300 people they want to depopulate the world and they are doing it slowly.

Right now they are doing it with lars and putting poise in our food and putting fluoride in our water.

I used to swim across lake austin.

I don't even want to be water skiing anymore.

That's unusual.

I'm sorry.

Dick cheney said in this video, it was a secret -- they didn't know they were being filmed.

And he said by the time the one world order is in place for a takeover by the united nations and by the soldiers that are going to be in our country from other countries, there's only going to be a third or fourth of all of us alive in the whole world.

If you don't know this, listen to me.

Please investigate and check it -- start trying to get rid of the bad stuff that they are doing and they are having here.

We can stop a lot of it.

They've already gotten rid of fluoride in other places.

And y'all have -- they've been trying for two years to do it here and you haven't done a thing.

Listen, if by any chance you've received money at all, take that money and throw it in their face and tell them you are an american, you are very proud to be an american and you are proud to be from austin, texas and you are not going to let them take over our country.

This is what all of this is about.

Every bit of it.

You don't know it, but I do.

I thank you.

[Buzzer sounding]

>> Mayor Leffingwell: Thank you, babs.

[Applause] next speaker is john bush.

Topic is city problems.

>> I want to speak specifically about fluoride, my disdain for lack of action on the issue.

You've heard from us, I'm sure you know why it's bad.

You've been hearing from linda and ray but I would like for you to hear from the environmental board and the board who you appointed.

This is after they voted to approve the investigation.

>> But my concern about all this is -- [inaudible] we have an opportunity to have a thorough discussion.

We have a lot of input from citizens.

We have some concerns as a a board.

We asked for an independent study that would be based in science.

We asked that from the council.

The city staff was directed by the city manager to do a study within the departments of the city.

No mention was ever made that the environmental board had made this request.

The dots were not connected.

That puts us in a very awkward position.

And we knew nothing about this ahart actually heard that this was happening rather informally.

That gives -- that puts our board in a difficult position, and I just want people to understand that.

We were trying to do something that didn't need to get escalated to the point where we are now.

This could have been avoided.

And I want that to be in the record because that's the thing that gets to me the most is we did not have to have it come to this level of escalation at this point, and it didn't have to come back to our board had our board's request even been responded to in any way.

>> It's clear you are not doing your job when your environmental board to carry out an investigation.

It only takes two to bring forward an independent investigation just as the environmental board chair mayor gay maxwell has called for.

She is in an awkward position.

She probably feels embarrassed, powerless because the board, majority of them voted to carry out an independent investigation.

All we're trying to do is you to make a sound decisionen a the inax, we're getting sick and tired of it.

I would hope two of you -- I'm going to call your office personally.

[Buzzer sounding] it only takes two people.

We're not asking you to stop the fluoridation, we're just asking you bring forward the environmental board's recommendation.

>> Mayor Leffingwell: Thank you, john.

[Applause] robert l. thomas.

Robert l. thomas.

Topic is labor and a industrial relations at rosewood parks.

>> Thank you, mayor leffingwell and mayor pro tem martinez.

An honorary member of the council I'm honored to speak to you in concern of the rosewood parks labor and industrial relations.

I am from the labor of international unions of north america advisory council for the revitalization projects at rosewood and the national football league.

And the world football league [indiscernible] pro-football.

Now, I am the union representative from the office of minority business affairs for the austin black contractors association, and during the time that we've dealt with labor industrial relations at rosewood, we had gone into an impasse.

It's been about 25 years now since I've dealt with them and we've looked over the agreements from the parks and recommendation department in concern of labor and employment for ethnics and myself.

We have developed such enterprises as the [indiscernible] and the millennium youth entertainment center.

Then we dealt in landscaping contractors for the east side football field.

My basic concern is to bring forth a type of establish two rules as a builder that would be concerned about the [indiscernible].

I'm happy to have done [indiscernible] and I feel it's much more work we can do.

I had spoken to [indiscernible] and before him documents concerning our labor union of whom w affiliated with.

I'm trying to get a meeting with [indiscernible] so that we could go down and bring forth an end to [indiscernible] and myself and labor leaders for the future of rosewood.

We feel it's right we can expand in neighbors where it's needed.

Now, I have with certain amounts of -- well, when I say structure, stability within [indiscernible] if we can help it out.

We need to look possibly into the new budget that's coming in october, I heard of.

Probably after that we want to be able to look into, well, new meetings with the city managers, go over -- [buzzer sounding] -- the criteria of future projects.

So I would like you to be able to sanction that [indiscernible].

Sara hensley.

I would like to you sanction the meeting with sara hensley [indiscernible]

>> Mayor Leffingwell: I hensley is in the -- there's some staff here that will get you some information.

Thank you.

And just confirming that krystina kagan is not in the chamber.

Those are all the speakers that we have signed up to speak in general citizens communication today.

So without objection, the city council will go into closed session pursuant to section 071 of the government code for consultation with legal counsel to take up several items.

Item 102 concerning nathaniel voss leo cantana and city of austin.

Item 103 concerning the city of austin versus harry whittington and 104 concerning lions municipal golf course and the university of texas land known as the breckenridge tract.

Is there any objection to good into executive session on the items announced?

Hearing none, the council will now go into executive session.

We're out of closed in closed session we took up and discussed legal issues related to items 102, 103 and 104.

No action was taken.



Council, without objection I'd like to go back and pick up, should be real quick, 58, which was pulled by council member riley.

if I may make a brief comment on that.

if you want to make a comment or motion or what.

I would add this is an item related to parking facilities in the city's convention center parking garages.

Based on a conversation that we've had in executive session I'm ready to move approval.

>> Second.

council member riley mes approval of item 58, second by the mayor pro tem.

Any discussion?

All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye.

Opposed say no.

Passes on a vote of 6-0 with council member cole off the dais.

And one other quick cleanup item, council, before we go to item 105, if we could get guernsey in the room?

Mr. guernsey?

, Or a designated representative?

If we could just go through these postponements, the ones that he anticipated 00 and at 4:00.

>> Guernsey: okay.

Very good.

zoning ordinance covenants.

The hearings are closed.

Do you want to do consent -- consent postponement only?

Just postponements?

well, I guess we could do the consent.

>> Guernsey: okay.

Items for consent are 106, case c14 108, property located at 13985 fm 26769 road.

This is to zone conditional overlay, lo-mu-co, combining district zoning.

This is ready for consent approval on second and third reading.

107, case c14-2010-0039, this is for the property located at 1307 newning avenue.

I understand council may want to postpone this item for one week to your august 5 agenda; is that correct?

>> Yes, mayor, that's correct, and I think that we are working on that situation -- that will be on consent to august 5.

108, c14-2010 (0057, property located at 1120 east braker lane.

This is zoned sf-6.

District zoning.

This is for consent approval on second and third reading.

109 is case c14-2010 chef 0035, for the property located at 1800 nueces, and this is applicant's request to postpone this item to your august 26 agenda.

110 I think will be a discussion item.

And item 111 is case c14-2009-0135.

This is for the property at 100 east wells parkway to zone the property community commercial-mixed use conditional overlay or cr -- or gr-mu-co combining district zoning.

This is ready for consent approval on second and third reading.

That concludes that portion of the zoning of the agenda.

>> Consent agenda for those items were a public hearing -- where a public hearing has already been held is to approve on second/third readings items 106, postpone until august 5 item 107, to approve on second/third readings, item 108, postpone item 109 until august 26, and to approve item 111 on second and third readings.

Motion to approve by council member spelman, second by council member cole.

Discussion.

All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye.

Any opposed say no.

Passes on a vote of 7-0.

let me continue with the technical zoning neighborhood plan amendment items, for public hearing, our open possible action is available.

First item I'd like to offer 112, case c14-98-0150, restrictive covenant termination request at 100 east wells branch parkway.

Zoning and platting condition redges was to approve the termination request.

And we can offer that consent.

Item 113 is case c14-2010-0043 for the protestant the property at 2305, to zone Ir-mu combining district zoning.

The zoning and platting was to recommend Ir-mu-co combining district zoning.

This is ready for consent approval on all three 114 case c14-2010-0058 for the property at 2209 west parmer lane.

This is to zone the property neighborhood property commercial overlay or Ir-co combining district zoning.

The zoning and platting commission recommendation was to grant the Ir-co combining district zoning.

This is ready for consent approval on all three readings.

Item 115, c14-2010-0073.

We had discussions with the owner and believe this item should be postponed one week to your next agenda on august the 5th.

This is a postponement on item 115.

>> Mayor leffingwell: 115?

>> That's correct.

Item 116 afternoon 117 are discussion items.

Item 118 is c14-2010-0076, located at 11215 south i-35 service road northbound.

This is to zone the property to cs-1-co, stands for commercial liquor sales overlay, district zoning for tract 1 and gr-co or community commercial conditional overlay district zoning for tract 2, and commercial liquor sale conditional overlay or cs-1-co zoning, to gr-co combining district zoning for tract 3.

The zoning and platting commission's recommendation was to grant -- thank you -- conditional -- or commercial liquor sales conditional overlay or cs-1-co district zoning for tract 1 and community commercial conditional overlay or gr-co for tracts 2 and 3, and this is ready for consent approval on all three readings.

119, case c14-2010-0069 for the property located at 904 san antonio street.

We have a staff postponement on this item to your august 19 agenda.

That's item 119 postponement to 8/19.

120 is case c814-2009-0139 the bull creek pud the property located at 4909, 4923 and 4925 fm 2222.

This is the zoned property planned unite development.

The zoning and platting was to grant pud zoning.

Mayor, we can offer this consent if we don't have anyone signed up in opposition and I don't believe we do.

we do not.

>> Guernsey: okay.

So item 120 is consent approval on all three readings.

Item 121, case c14-2010-0075, the property at 3000 del curto road, zone pco combining district zoning.

The planning was to -- this is ready for consent approval on all three readings.

Item 122 is c14-2010-0081 for the property at 1010 east cesar chavez streets.

Zoning it general services mixed use conditional overlay neighborhood plan or comp, and the planning commission's recommendation was to grant the cs-mu-co-np combining district zoning to change to conditional zoning.

This is ready for consent approval on all all three readings.

123 Is c shall-2010-0083 for the property at yager lane to zone the property public.

The zoning and platting commission recommendation was to recommend approval of the district zoning.

This is ready for consent approval on all three readings.

124 and 125 are related items.

124 is case 01, north lamar combined neighborhood plan.

Tract 32 for the property at 320 east rundberg lane.

The planning commission recommendation was to grant the high density single-family designation for this property.

The related zoning case is item 125, case 01 for the north la mayor neighborhood plan area, combining district, this is tract 32 for the same address at 320 east rundberg lane.

The recommendation is to change the zoning from -- or excuse me, let me go to -- public neighborhood plan or pmp combining district zoning, community commercial-mixed use, vertical mixed use, conditional overlay neighborhood plan or gr-mu-co np combining district zoning.

Warehouse/limited office, conditional overlay, neighborhood plan or w/lo-co combining district.

Conditional overlay neighborhood plan, or cs-v-co-np combining district zoning.

Also, on this item just a note for the record, but not to be included in the ordinance that on tract 32 b the property is 125 feet wide measured from the western property line.

Both 124 and 125 are only ready for first reading.

126, case c -- excuse me, case np-2010-0027, this is the central west austin combined neighborhood plan, a related item 127, case c14-2010-0051, this is the windsor road neighborhood planning area rezoning, and 128, case c14-2010-0052, the west austin neighborhood group planning area rezoning.

Staff is requesting a postponement on items 126, 127 and 128 to your august 19 meeting.

And that concludes all I can offer for consent at this time.

consent agenda for those items we have yet to hold a public hearing is to close the public hearing and approve -- approve on consent item 112, close the public hearing and approve on all three readings items 113 and 114, postpone until august 5 item 115 to close the public hearing and approve on all three readings, item 118.

Postpone item 119 until august 19.

Close the public hearing and approve on all three readings.

Items 120, 121, 122, 123, to close the public hearing and approve on first reading only, item 124 and 125, postpone item 126 until august 19.

Postpone until august 19 also item 127, 128, and that is the consent agenda.

I'll entertain a motion to approve.

Council member morrison moves to approve the consent agenda, second by the mayor pro tem.

Any discussion?

All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye.

Any opposed say no.

Passes on a vote of 7-0.

>> Guernsey: thank you.

and guernsey, real quick, the -- we have a number of cases.

129 through 143, be postponed until august 19.

At the request of staff.

that is correct, mayor, we are postponing.

I'm not sure of the date to be precise on those items.

I believe you are connect as far as the postponement is concerned.

The 19th?

Yeah, it's august 19 for -- these are floodplain variance-related items, 129 through 143.

>> Mayor leffingwell: okay.

So counsel, I'll entertain a motion to postpone items 129 through 143 until august 19.

>> So moved.

motion by council member morrison, second by the mayor pro tem.

Discussion?

All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye.

Any opposed say no?

Passes on a vote of 7-0.

>> Mayor?

council member morrison.

it's my understanding that staff is also going to -- requesting a postponement of item no.

150.

>> Guernsey: that's correct.

That's correct.

And staff will be requesting postponement of the item.

If you'd like we can take that item also right now.

any others?

items 145, 146 and 147 have been withdrawn, no action is required of council.

i believe those are withdrawn previously.

>> Guernsey: that's correct.

so the only remaining is postponed until when, item 150?

150 to august 19.

I'll entertain that motion by -- motion by council member morrison.

Second by the council member spelman.

All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye.

Any opposed say no.

That passes on a vote -- on a vote of 7-0.

>> Guernsey: thank you.

so that brings us back to item 105, but very quickly, before we go to item 105 i want to recognize a couple of eagle scouts that have been watching this all day long, I'm informed.

Mitchell jeter.

Mitchell, do you want to stand up?

You're still here?

Thank you.

Mitchell is working on his citizenship and the community merit badge for eagle scout.

He's leaving canyon vista middle school going to high school as a freshman.

He is here today to listen regarding items 23 and 28, which we covered about 12 hours ago, I think.



[Laughter] he's also working on his communications badge.

Welcome, mitchell.

We also have fohamill, troop 20.

Forest?

Are you out there?

Stand up.

[Laughter] from keeling middle school working on his citizenship in the community merit badge, working towards the goal of life scout.

Welcome.

Thank you very much for visiting us today.

[Applause] now we'll go to item 105, and I believe we have someone from the law office to make presentation?

>> Mayor, mayor pro tem, council members, my name is chris copola.

I'm an assistant city attorney with the law department here today to recommend that you approve an agreement to settle a civil rights lawsuit filed against former city employee leo quintana, leonardo quinn tan a this is a civil rights claim saying quintana used excessive force when he shot on may 11, 2009.

The settlement agreement generally contains the following terms.

City will pay the plaintiffs gross sum of \$750,000, in exchange for this payment the plaintiffs will dismiss their lawsuit against -- excuse me, against quintana with prejudice.

The plaintiffs will also release quintana, the city and any other employees from any claims that were or could have been asserted in the lawsuit.

Unless there are any questions that's all I have.

>> Questions for staff?

We do have several folks signed up to speak on this item.

>> Cole: mayor?

council member cole.

I would like to use a point of personal nelson wayne vincent, who I've seen in the audience -- thank you, chris -- to come up to answer just a couple questions.

And I do not intend for this to last long or to hurt your time since I'm doing this to you.

linder, please tell everyone who you represent.

>> I am nelson linder from the austin naacp.

I'm the local branch president.

Thank you.

>> Mr. vincent?

>> I am the president of the austin police association.

I represent over 1600 austin police officers.

now, I know that for a while you guys have been talking to each other and you have been talking to your members and working really, really hard about programs that you could work on to help the relationship between the minority community and law enforcement.

But what I really know, and what I think is most important is that you've been talking to me this week, and I think that I was trying to emphasize to both of you that we had a real, real tough decision to make this week, and I know that you-all are on opposite sides of what you have asked council to do.

But first of all, we recognize that you have asked us something to do, but what I want to know is what you're going to do for the betterment of this city regardless of the decision that comes down today.

So will you briefly tell that to my colleagues.

>> We've -- we've entered into a discussion on something that -- that i think both of us have wanted to do for a while.

[03:58:00]

I think the timing was right in initiating something a little bit different, and that is the rank and file police officers, the actual people who patrol the streets.

We're going to facilitate dialogue with the community, the african-american community, other segments of the community.

We recognize -- there's no secret of the fact that there is some distrust out there and there is misunderstanding on both sides, and I think bringing it down on the lower level, having these prank discussions, some of these discussions are not going to be comfortable but they need to happen on both sides to quell some of the distrust and misunderstanding.

They're better placed in neighborhood meetings, schools, churches, parks, in an effort to do three things from our perspective.

One, reduce the distrust.

It's harder to distrust people you get to know.

Secondly what we want to do is work towards a better understanding so that we can reduce the number of police confrontations out on the street and therefore reduce these type of incidents that we're talking about today.

3 of this, I think, is to really enhance at the lower level in schools the younger people, enhance the idea that don't mistrust the police, become the police.

I think we can enhance the -- particularly the minority recruiting of the police department.

So these are some of the things, and he'll -- nelson will address some of this as well.

These are some of the things we're talking about, not just in theory.

You're going to see it happen.

>> Cole: thank you.

>> Thank you, sir, let me first thank you, council council member cole, for the work you did this week in bringing us together to have this kind of conversation, and also to council in general.

Let me say that in the past ten years in this city we've worked a lot at the top level, management, leadership, about policy issues, and that's a good thing.

But that doesn't stop these problems.

It gives us guidelines and instruction.

These are primarily human issues and therefore vincente work every day in what we call the streets, base level of interaction.

Oftentimes people who have these problems aren't talking to each other, so if he and I can talk about what we see, what we feel, what we know we can begin to address these issues from different perspectives.

In our community there are many working class cops who don't understand the fear in our communities.

There are many black folks who have the same issue, but the problem will be solved from the bottom up, not the top down.

So on our part, given the fact we differ -- the example, even though we differ the picture is bigger than us, bigger than you, it's about our young folks in the city.

So we can put our pride aside and our ego in the bag and address our concerns.

Just maybe at some point as a society we can come to the fact that if we don't treat people as human beings, regardless of their backgrounds and resumes and certificates we'll have these problems on a perennial basis.

This is a gallant effort on our part.

I say gallant for a reason, to force other people at a higher level to do the same thing.

And if I may -- this is a point of privilege.

In 2005 I came here with a different council and we talked about a thing called an african-american quality of life.

That addresses empowerment, education, health, and police and safety.

That council was very specific in staying, look, they voted 7-0 so we're going to address these issues.

And so we did.

We talked for a long time about how to respect police officers and how to respect young folk and how to reduce use of force, but somehow those issues got lost in the process.

We put it on the back burners, some of us even lost it and as a result these problems have returned.

So we have been here before, and the path that led us here is further examples of what we should be doing.

Let me say this in closing.

It's my understanding and my belief within the city that african-american life is not really given its proper value.

We can talk about parks, roads, biways, highways, birds, bees and everything else and if somebody on this council would embrace that issue and talk about it.

But when it comes to black people in the city on every level, nobody is pushing this issue on a regular basis.

And I want to remind you, had you studied 2005 and worked on a regular basis, a lot of these issues like meet and confer would have never happened.

My point is, you can't just give us lip service and vote, because you've got to embrace these issues, point to these issues, talk to the folks who have these problems and make sure you understand what the problems are.

And I think if we don't do that we're going to have this recur on a regular basis.

And on a final note, because this is a point of privilege, over the past year I've had the great pleasure of knowing the sander's family, especially mr. sanders.

I want you to know something, on that dreadful moment in may, in a car on a parking lot, he was there with the police chief and other city officials, he didn't say one negative thing about you.

He was positive, he was approachable and he was kind.

This was in the midst of total chaos.

He was still proud of his city and his leadership.

And I can tell you this today, you should know this.

Had he said one negative thing about the city of austin, there probably would have been other casualties at the scene.

So please recognize that despite what happened to his son, he's been a model citizen who supports the process, who supported us and gave you every benefit of the doubt.

I hope from now on that you can find the same kind of respect for him, that you have a process that looks at things very carefully, is

We see, what we feel, what we know we can begin to address these issues from different perspectives. In our community there are many working class cops who don't understand the fear in our communities. There are many black folks who have the same issue, but the problem will be solved from the bottom up,

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[00:03:50] >> Cole: okay. Let me respond to that, nelson, and you and vincent can go to your seat. I've been in austin for approximately 30 years. We have coming a long way. I remember when police officers could not drive down east 11th and 12th street without rocks be de beingthrown at their cars, and what stood out in my mind more than anything in this case was the fact that young people were throwing cars at police cars at the very beginning of this shooting. And that let me know that it's not only about this case, it's about where we're going as a city. So on my watch we are not going back, and I will hold both of you responsible for that, and I am sure I can get seven votes for that. All right? >> As a point of -- one

final comment. We hold also each one of you accountable as well, and i mean that. [Applause] >> I tend to agree with that. There's responsibility all the way around, so there's a lot of issues we all can be responsible for. and we can just blame the school district. [Laughter] first speaker in favor of the settlement is freddie childress. And welcome, freddie. You have three minutes. >> Mayor, city council members, thank you all for everyone -- all those watching on television, listening on the news, may peace be unto you, I greet y greeting words of peace, in every language. [Foreign language] lately there's been a great display of black he hatred in the united states. There have been signs in different institutions to let black people know there's still a great deal of hatred in this society. Our young people pose a threat to this society and I'm not sure our young people understand why. Black youth are, in fact, the so-called threat. The sad thing about our young people is that our parents for the most part have not shared with them and us the horror of what we and our grandparents have come to in order to give birth to this present generation. In that sense parents have failed the children, as well as the school district. I agree, sheryl cole. I shouldn't have said that. [00:06:20] >> I understand, not only an ancient struggle but a price so many have paid so that these youths can go to fine universities, a restaurant of their choice, stay in a hotel of their choice. They don't understand the price. It is not their fault. There is no jewish child that does not know about the holocaust. It is incumbent upon the parent to make the child aware of what make them who they are today. Because of their control of media and their power, it is we also who have to learn about their suffering so we can have sympathy for them. But when we know nothing about our own suffering, brothers and sisters, this is one of the reasons why we have no sympathy for ourselves and for one another. According to the dictionary the term justifiable homicide means whatever is justifiable is excusable. It is justified because it's justified by the principle of justice. The homicide means the murder of one human being by another. Since we have been in america we have been under the domination of a powerful power that during slavery did not have to justify the murder of our fathers. The slave master and their children had the power of life and death on every black person outside of the principle of justice with no regard whatsoever for the life of the black male or female that was being put to death. The period of time right after president abraham lincoln issued the emancipation proclamation was the so-called reconstruction era wrirn black people made tremendous progress, from 1865 to 1877 is the so-called emancipation to free slaves, didn't have to be afraid to make a free step. Those fred slaves wants to make a free step, challenge their former slave masters and children by wanting to vote, purchase land. These kinds of black brothers and sisters would be dealt with harshly by the former slave masters and their children and there was no deliberative body that would judge our affairs with justice. In closing, police authorities are the same today as they were during slavery. In fact, this is how policemen began. Police were formed to catch runaway slaves, take them back to their masters -- thank you, your time has expired. >> Thank you all for listening and may you reap what you sow. [Applause] anthony walker. Anthony is signed up for the settlement. And you have three minutes. >> I open up with saying grecian and. [00:09:02] [Foreign language] which means may peace be unto you. Mayor, mayor pro tem, council members, city manager, naacp president, police department president, and the reverend joseph c. Parker I want to thank all of you. I had an opportunity in my lifetime to serve in the military and I have been around the world, and of all the places I have been, austin, texas is one of the most seeing vaited divided of them -- segregated divided of them all. We are in denial of some of the issues facing us. We don't talk about them because we don't want to stand for the truth. True enough we have made progress, but we still have a long ways to go. I want to paint a picture for you real quick. When we are in the -- when we in the communities talk to the 17, 25, and the 25-year-olds, you have to be able to have some strength and

courage to approach those young guys. They don't have hatred towards the police department, just a lot of anger. And a lot of them are just frustrated what's been going on. So when you approach these guys you got to approach them correctly, with respect, and once you approach them you got to make a way take to talk to them -- relate to them on their level, and once you get to relate to them on their level you got to be able to get them to understand that they can be a part of the solution. These are some of the guys that people have written off calling gangs and thugs, crips and bloods. These are the guys that have been wrote off. These are the ones that can make a difference in our community, they're looking for a way out, not a hand-out. What happened on september the 11th, a year ago, it could have been avoided but we got to acknowledge this so we can move on. Over this year, this time frames there's been a lot of damage been done in this city. In order for us to move forward, whether naacp, whether the police union, who have great ideas and i think they'll do a great job in moving forward but in order to really make this happen you have to approve this settlement so we can instill that into the community that we can move forward. If we don't do that, it's a huge setback. So you paint a picture for five, ten, 15, 20 years from now on the decision you're going to make today. I don't think anybody understand the magnitude of this 105 today. A lot of people sitting on the edge want to know how far we're going. A couple weeks ago we had a civil rights freedom fest in east austin. There were a lot of community leaders out there. We also invited the austin police department to come out there. What they did was demonstrated to the community, to a lot of young generations on the action they need to take when they're stopped by a police officer. So we want to educate them so they know what they need to do, rather than not knowing what they need to do, so they can defuse the situation. Our main thing is keeping them alive. There was a life lost on september 7, we can't bring that back but we can put closure on this. To do that we have to approve this settlement so we can move forward. We're trying to move forward and make positive things happen. We can work together, we can communicate, but we have to be able to stand for the truth. And acknowledge certain things have been done, whether a key point, whether prior detectives, things that happened over the year, but we can't put that aside and move forward. So you are in a position right now where you can dictate the direction we're going to go for the next ten years. So we're asking your support to go ahead and approve this so we can move forward. I think austin is blessed to have some strong city council members and strong leaders, but it's not going to be much at all when we go back to the community, with news that they just don't want to hear to try to get them to jump on board and move forward. This is something that they don't want to hear. They want to move forward. So I want to actually thank you, mayor, thank the city council members and and move forward and may god bless us all. thank you.

[00:12:44] [Applause] next speaker is reverend joseph parker jr. Welcome, sir. >> Mayor, members of the city council, it's a delight for me to be here at this time and at this moment. I have prayed over you a number of times in this place because I want god to guide you. I want you to be wise. I want you to be men and women of integrity and great leaders of this great city. I love austin in spite of all of its weirdness. I have called you over the years to ensure you and your predecessors -- to ensure that our city be a city that lives up to its moral center. I still hold that over your head and still expect that of each of you, but it pains me to be here today with the recognition that some of you are contemplating not approving this settlement. I believe this is a matter at its core of our city's moral center. I think it speaks of your integrity. I would urge you to live up to austin's moral center, to do the right thing, to live out what we elevate ourselves as being in this community. The life of nathaniel sanders, I did not know him, I do not know the family. I'm here because I believe in justice. His life will never be given back to his family. I don't know if many of us would debate that there were wrongs done. The right thing, the moral thing to do is to



compensate this family. In fact, it should be more. You know I'm a trial lawyer also. I've been to the courthouse. I believe it's worth more. But we live with what we can get. And so I would just continue to ask you to be moral, be men and women of integrity, live up to the great view of this city. I'm watching you. Others are watching you. Show us who you really are by approving this settle him. Thank you. [00:15:25] [Applause] thank you, reverend. Next speaker is soara zora houston for, and you have three minutes. >> Thank you, mayor and members of the council. There's trouble in river city. We have an opportunity today to do something about that and start on a path to healing. The number of use of force cases against minority males in our city continues. I a lifelong resident of austin, and as a single parent I raised a son who is now 45 years old, and I did the best that I could to help him become a good citizen. There's only so much a parent can do. When he came to visit austin two weeks ago, I went through the same checklist that I did when he was a little boy. If the police stop you, say yes, sir. Say yes, ma'am. Don't mouth off. Get a badge number and then we'll deal with it later. My son reminded me that he was a federal police officer. I said to him, son, in this city they won't know that until they take that badge off of your dead body. We need to move forward from this place. I strongly encourage the courageous conversations that the police president and the president of the austin branch have promised us to do. I would like to encourage that that be an objective facilitator, somebody that knows how to deal with those kind of conversations that are going to cause pain, that are going to lift scabs off of old wounds that we've never dealt with effectively in this city, and I'd like to have a review of the training policy that the recruits have to go through that have to do with how you deal with minority communities, people who are culturally different from the norm in the police department, and also set up a system where periodically police officers, regardless of their rank, have to go through that same kind of training again. Racism is not something you get rid of in one inoculation. It's an ongoing everyday issue that we all have to come to grips with. I thank you so much for your time. thank you. [00:18:09] >> Thank you. [Applause] next speaker is tane ward. Tane ward is signed up neutral. You have three minutes. >> My name is tane ward. I'm speaking on behalf of the austin police accountability coalition and we support the family as they seek justice today, but we wanted to say that however the council votes, whether to settle with the family or not, they still haven't settled with the community, and we are still going to look to answer the questions that remain unanswered. We're going to look towards the discipline the officer was involved in this shooting and, you know, the police union president is right, that there are people who do not trust the police, and we need a lot more than frank discussions if we want to resolve that. We need a real system of police accountability, and as we've seen over the last year, there is not a working system of police accountability, and it is that reason that there is not trust. And if you want to build that trust back up, like everyone in this room does, especially the police, we need a system that allows police to be held accountable, and you've seen our position on that, and we hope you take that up soon. Thank you much for your time. thank you. [Applause] next speaker, heather fazio. Heather fazio. Is will macleod in the chamber? You'll have six minutes. >> I won't need six minutes. Thank you, will. What I wanted to talk to you guys about was something that we found in the civil case filings, which is an extra report that's within the plaintiff's response to the city's motion for summary judgment, and it found that there were -- that prints were never run by internal affairs and that's when the gun was run, that there were no fingerprints. This evidence needs to be , needs to be brought to the grand jury so an indictment can come on criminal civil charges and we need to slow down on ours when it gets broad to the grand jury. That's all except for the told us if there is new evidence, this she will bring that to the grand jury. So it's something that's possible. It's something we need to slow down on and that's what I'll urge you guys to do today. thank

you. Debbie russell. Debbie is signed up neutral, and have three minutes. Thank you. I'm debbie russell representing austin police accountability coalition. This -- I'm glad we are having a discussion today. I'm glad we are allowed to talk a little beyond the parameters of this suit, of this settlement, the proposed settlement, because it would be actually very difficult to speak directly to that since we don't have a copy of the draft settlement to speak to. But in terms of the onus being put on the community to learn how to better react to police officers. I want to mention something, and while I respectfully vincent for going forward in this direction, I think we need to also be looking at the other side of that the community is not the ones that are licensed peace officers, and we are not the ones that are carrying the guns and we are not the ones that are trained to defuse situations. While we should be bettering ourselves from the community standpoint to do that, i don't think right now the place to do that is that the police come in and tell the community how they should react when we don't trust the police, and that's where we are right now. [00:22:28] [Applause] trust is earned, it's not preached in schools. It's earned by actions and by agreeing to specific changes in the meet and confer contract that will move us forward, to have true workable civilian oversight, which I can guarantee you most people in this town, and I think a lot of people that serve in the crp and in the police monitor's office think we don't have a workable system. While apac - - austin police accountability coalition is not taking a specific position on the settlement, we are very concerned, again, about how this has -- the process by which this has come forward, and the reactions of some of the dais to outcries that we shouldn't go through with this. The dais had inside information months ago in executive sessions. That would be the time to reject or raise concerns about going forward with the settlement. Bad faith is when you back out at the last minute, at the 11th hour of something, that I don't think a federal judge would look too kindly upon. You are receiving and have already in some form or another have received a list of items that we have -- of solutions that we're bringing to the table to start now on before the 2012 negotiations start with the police union for the 2013 meet and confer contract. A lot of these are something we want to talk with you more about as we meet one-on-one and thank you for those that have allowed us to do that and we look forward to next week, but linder said, we hope that you will embrace these issues, embrace these possible solutions and own them and make them your own and run forth with the community in the positive direction that I think austin deserves and it should stand for. Thank you. thank you. mayor, I'd like to ask debbie a question real quick. I'd like to ask one -- council member cole. you don't have to answer this right now, but i would like to visit with you later because what I've noticed is that -- well, basically no one is talking to the people who are the victims, and so we can come up with a lot of grand ideas about transparency and civilian oversight, and i don't know if that makes one bit of difference to a 15-year-old african-american male, and you know I have boys, and I know what a challenge that can be to just try to understand, but will you come visit with me, I mean, just to understand what is going on up there? But we've got to. We simply have to, and we have to do that on both sides of the equation, but i have not done any research and I'm hoping that it has been done in other places, about how those communities have actually reached out and dealt with -- and i think most crimes occur with males regardless of race between the ages of 18 and 30. linder and vincent and myself try to do something about this, we need somebody like you that's really going to research. So can you do that for me? [00:25:53] >> Absolutely, and just to mention a funny comment, that there are a lot of models we are looking at in putting that research together in terms of where we have stronger civilian oversight systems in the country that -- where the police association and the police were -- before that was put in place, were quite fearful of those systems, and now that they have them embrace them and think that they're really the best thing for everybody. >> Cole: okay. Yeah, let's just talk about three -- I'd just like to

know. Thank you, mayor. John Bush. John Bush signed up neutral, and you have three minutes. >> Thank you, John Bush with Texas for accountable governments representing Austin Police Accountability Coalition. I want to do respond to council member Cole's assertion there. I think it would mean a lot to a 15-year-old if we reform the police monitor's office, because what the police monitor's office is supposed to do is serve as a deterrent from police officers abusing their citizens. So if the police officer knows that he can get away with murder or he can do whatever he pleases and have a slap on the wrist or even -- they do do internal investigations and it's flawed from the get-go there's going to be less of a deterrent to not abuse citizens. So I do think that there's value in that. And on that note I would like to offer a little bit of insight. It's from a philosopher who speaks a lot about monopolies and government, and he writes -- it's Murray Rothbard. He writes, how shall the police allocate their funds, which of course are always limited, as are the funds of all other individuals, organizations and agencies. How shall the police invest in electronic equipment, fingerprinting and so forth. Is the government has no way to making these allocations. The government has a limited budget. Its allocated funds are subject to the full play of politics, being doing link and bureaucratic inefficient with no indication at all as to whether the police department is serving the consumer in a way responsive to their desires or whether it's doing so efficiently. So one could respond we have the police monitor's office to do just that purpose, to let the police department and in turn the Austin City Council know when the police -- I'm sorry, when the citizens are not having their desires properly fulfilled, but unfortunately since the beginning the police monitor's office has been riddled with all sorts of problems, among them no subpoena power, it's not public, there's no public access to the misconduct files, and the biggest problem of all is that the police monitor's office is part of Austin Police Association contract, so in a sense the method of correction, the mechanism of correction is part of the office that it's supposed to be correcting and checking than and just like a fourth-grader grading their own paper a lot of time a lot of stuff falls through the cracks. So the question is how do we reform the police monitor's office? We run into a couple problems doing that, first we have a city council that's largely unresponsive to the needs of the citizenry, not to mention the police office monitor's office itself is underneath the police officers association contract. I sat down with assistant CITY MANAGER Mike McDonald and for him to tell us we need to talk about what's reasonable that the police association will agree on. We the people out here are yes or noing for some accountability -- yearning for accountable badly. We want it badly and the way the current system is it's not working out. So we're calling on you the council to stand with us and leaning on the police association in order to get the reforms necessary for us to feel comfortable walking around. I'm about to move to the east side with my buddy who already lives there and I for one will feel less safe being there. I'm sure others know that but I feel lazy safe. So we drastically need these reforms and we hope that you'll stand with us in bringing those about. Thank you.

[00:29:48] [Applause] Charle Charlene Harris. Charlene Harris. Okay. Eric Ellison. Eric is signed up neutral. You have three minutes. >> Hi, I'm here representing Austin Cop Watch and the Austin Police Accountability Coalition. It's a group of concerned citizens, young and old, that go out on a regular basis to videotape police behavior. I have a couple video clips to show you guys today, particularly of how the police behave downtown after the sun goes down. It's about two minutes 45 seconds long. You can cut back real quick and start that over again. There's an officer injecting me, and then it's going to cut to the same officer right afterwards. Same guy. That's the same police officer. Those are some innocent people that were affected by the mace. It also appeared in the Daily Texan. This is why we don't trust the police. It's kind of dark, but the thud you're hearing right now is the baton cracking on this young man's skull after he willfully surrendered. And this goes on for about 15 seconds straight. There's one more clip left. Sorry,

your time has expired unless someone wants to donate time to you. [00:33:30] >> Thank you. [Applause] and, council, we have 24 minutes of public testimony remaining, so we will at this time -- at this time we'll go into recess for live music and proclamations. >> This is a unique style of playing and singing. His self-described genre of progressive folk or as danny likes to call it, folk and roll, incorporates a unique blend of folk. Thank you all for being quiet. I appreciate that -- a unique blend of folk, blues, rock and pop. This young talent offers an emotional and intimate live show along with entertaining and dramatic choreography. His latest album titled "cuddle bug" -- did I get that right, danny? Is available at waterloo records and you can catch a full set tonight at stubbs barbecue. So please welcome danny malone. [00:36:28] [Applause] [music playing] [ ♪♪ singing ♪♪ ] [00:40:14] [applause] >> thank you, danny. And I have to say I noticed a fan -- a fan out there -- a danny fan, that's great. Way to go. So I mentioned that you're going to be playing at stubbs tonight. Is that right? >> I'm playing at stubbs, yes. >> And where else might we be seeing you around town in the near future? Any special plans? >> Not really, because I leave so often [chuckle] >> morrison: oh, okay. Well, where can we buy your music? >> You can go to waterloo or on-line anywher com or anywhere -- >> dannymalone.com. I bet that's your web site. >> I think. Either that or -- that would have been really weird if it was someone else's. yeah, good aesthetics. I just found the best name on the internet, the best web site, and went with it. well, I also have a proclamation from the mayor that I want to read to you if you want to come -- >> where is the mayor? This is really kind of crap, actually. I know, I'm just a city council member, not -- we don't have a strong city council member -- every council member has a same equal vote. >> Not really. >> Morrison: okay. >> It's cool that austin has recognized me and everything, but I had a really good joke. >> For the mayor -- >> for the mayor. >> Specifically? >> Yeah. well, if you want to tell that joke we'll make sure -- >> I was going to say that ever since he's been in office, things having going real f'ing well. [Laughter] I have a feeling that's going to be spreading around city hall a lot. So he's going to hear it. >> You tell him that's what he missed. I'll tell him that's what danny said. >> But tell him he had to be there too because it's never funny the second time. >> I think it will be pretty funny when I tell him. I'm ready to read the proclamation from the mayor. Be it known that whereas the city of austin, texas is blessed with many creative musicians, whose talent extends to virtually every musical genre, and whereas our music scene thrives because austin audience support good music spore the by legends, local favorites and newcomers alike. Whereas we are pleased to showcase and support our local artists, now therefore i, lee leffingwell, mayor of the live music capital do hereby proclaim july 29, 2010 as danny malone day in austin, texas. So congratulations. >> Thank you. [Applause and cheers] >> and by the way, all of these meetings will be on the web site, so you can -- if you want to see danny tell that good joke, you can go find it on video on the web site on demand. [00:43:07] >> Wait, that was on camera? yes, it was, and it will be memorialized on our web site for a long, long time. Thank you. Oh, wait, wait, here's the mayor. You can tell the joke. He's got a joke for you. [Laughter] >> are you serious? Do I have to say it in the mic? >> I was just saying that ever since you've been in office that things have been going real f'ing well in austin. [Laughter] and I'm sorry that I just said that. [Laughter] tell me what you said? >> I regretted it the first time and then they threw me to the wolves. [Laughter] >> morrison: thank you. >> Nice to meet you, lee. Welcom e, everybody. Let me introduce you. Give me your name -- dolores gonzales. >> Tanya winters. >> Tanya winters. Todd hemmingson, aren't you one of the local transportation organizations here? George. George luc, l-u-c. And what is your name? [Laughter] norman kiekke? [00:46:02] >> Ron. >> Ron, good to see you, ron. I'm going to read this proclamation and then let one -- two of you, I guess, be the -- you're the designated speaker? Great. Well, I'm proud to be here with you today. The mayor's committee on

disabilities is a long-standing fixture at city hall, and I've got to tell you this funny story about your committee. About two years ago we were revising all of our city boards and commissions, and in the process we were doing a lot of cleanup here and there, and one of the things we did was we changed the name of the mayor's committee for people with disabilities just to the committee for people with disabilities, and guess what we heard? We heard dissatisfaction. So guess what it is now? It is once again the mayor's committee for people with disabilities. I've been proud to be with you on several occasions when we had awards ceremonies and recognitions, and I'm reminded here of -- I think it was just last year, Republic Park, and came out there and it was raining cats and dogs. I think it was the only day last summer that it rained, and we had this PA system that we struggled for -- I remember this very well, we struggled for about 20 minutes to get it working, and we never did get it working. So we all stood there in the tent, wet as could be, and went through it anyway. We made our way through it. We had a disability mentoring day and recognition here at council, proclamation, with a lot of new kids and were glad to see them. The employee awards, I was proud to be with you at a hotel out on I-35. I've forgotten the name of it, but I remember the occasion very well, and I say this all just to point out that I've been with you since I've been on council, and I'm proud -- proud to be associated with you and proud of the spirit that you show and proud of the things you do for the city of Austin. So let me read the proclamation. Whereas, on July 26, 1990, the Americans with Disabilities Act was signed into law greatly expanding civil rights protections for an estimated 54 million Americans with disabilities, and whereas we recognize that citizens with disabilities have a right to full participation in the social, cultural and economic activities of our city and that they in turn support our community and contribute to our economy, and whereas accessibility for and inclusion of citizens with disabilities is a core value for all city programs and services, thus offering more opportunities and enhanced quality of life for everyone in Austin. Now, therefore, I, Lee Leffingwell, Mayor of the City of Austin, Texas, do call on all citizens to reaffirm our commitment to full implementation of the ADA and do hereby proclaim July 2010 as the ADA's 20th anniversary month in Austin, Texas. Congratulations. [00:49:55] [Applause] do you want to say just a couple of words? >> I do. >> Once again, Mayor Leffingwell, thank you for this proclamation on behalf of the mayor's committee for people with disabilities and for your continued dedication and support of Austinites with disabilities. I would also like to send a great big thank you to my ADA assessment committee, Commissioner Norman Kieke and his team thank you so much for your hard work. These awards would not be possible without you. The Austin Access Awards strive to recognize businesses that are working toward full compliance with the Texas Accessibility Standards, which have been certified equivalent to the ADA. Only six states have such equivalency. In celebration of the 20th anniversary of the ADA the city wishes to recognize -- or the city wishes to award three businesses for their welcoming inclusive attitudes towards customers with disabilities. The city also wishes to extend an honorable mention to six businesses. We appreciate your efforts, and we hope to consider you for an award next year. We recognize the winners for their leadership and commitment to uphold the spirit of the Americans with Disabilities Act, which we often regard as our nation's second independence day. At this time I would like to present your certificates. When I call your name, please come down and receive your commendation and get your picture taken with the mayor. Austin Community College, South Austin Campus. [00:52:15] [Applause] Yea! Good to see you. Yea! Congratulations. Barton Creek Mall Customer Service. [Applause] >> Yea! Congratulations. Westgate Regal Theater 11. [Applause] >> congratulations! And now I have some honorable mentions. Honorable mentions with substantial compliance are El Arbol restaurant. Is anybody here? Coffee Bean and Tea Leaf on South Lamar. Capital Metro, Metrorail. [Applause] >> there we go. >> Yea! And then new

flower farmers market. [Applause] yeah! Congratulations! Lastly there are a couple honorable mentions that just couldn't be with us today, and they are mama sue's at southpark meadows and olivia's restaurant. We also have some commemorative ada 20th anniversary buttons, which we can give you outside the door if you'd like one. [Applause] before we take a picture, council member, would you like to say a couple of brief words? >> Morrison: thank you. I just want to repeat what i said earlier today that this mayor's committee just does such great work, and there's so much action and they put their heart and soul into it, I think it's one of the most productive committees we've got in this city and i really appreciate all your work. [00:55:15] [Applause] so we're here now tonight to honor a very important group. Of course they're all important, but this one is especially important group of austin employees, the folks that work in our small business development program. Right up on the second floor, just a few steps from my office. It's been my pleasure to work with so many of these employees, city employees, ever since I've been mayor, working on small business and development issue. I feel like I've gotten to know so many of them, especially rosie, who's in charge -- rosie right behind me, yeah, and vicki. I'm going to give you a chance to speak up for yourself here in just a second. [00:58:45] >> Okay. >> But I do want to emphasize, as I have for about a year now how important small business is, especially here in austin, texas. I've got a couple of statistics that I roll out on a regular basis, actually. I was going to say every now and then, but actually I -- it's a lot more than every now and then -- that are kind of startling. 90% Of the businesses in austin have fewer than ten employees, and 75% of all austin jobs are with companies that employ less than 100 people, arguably a small business. So that tells you something very important. Tells you how important small business is to austin, texas, and if I can borrow a phrase that's not original to me, but I use it all the time also, I'm not bashful about that, in austin, small business is big business. Our folks do so much in the way of providing mentoring services, tutoring services. Next thursday we're having a meet the lender, where our employees are going to bring -- sponsor an event where they invite local lenders, bankers and so forth, to come out and talk to people who are interested in starting or expanding a small business. A lot of these are mom and pops. They don't have the sophistication to go downtown to 111 congress and hire jerry harris to be their lawyer and have him help them figure out how to do this kind of think. So we -- but we've got the people, we're going to have the people here next thursday to show you how to do that. We so very much appreciate the work that all of you do, and we appreciate it so much that I'm going to read this proclamation to you. It says, be it known that whereas access to capital is the number one business need for entrepreneurs wanting to start or expand a business but seeking commercial loans and discussing finances can be an intimidating experience, and whereas the city's 7th annual low cost business loan fair meet the lender aims to give entrepreneurs opportunity to learn about the loan process and meet nearly 40 exhibitors from a financial arena in an informal and neutral environment, and whereas the city's small business development program at this year's event will also offer two biz aid business startup orientations plus a class about the city's zoning, permitting and development processes. That's going to be about a six-month course right there. And whereas sbdp's goal is to ensure that small business owners are aware of the resources available for starting or enhancing their businesses. Now, therefore, I lee leffingwell, mayor of the city of austin, texas, do hereby proclaim august 5, 2010 as meet the lender day in austin, texas. Congratulations. [Applause] [one moment, please, for ] >> our staff is joy miller, javier, liz, cindy garcia, where is blake smith? Where are you? Hiding from me, blake smith. This event is designed to give start-up an existing -- and existing business owners easy access, the key is easy access to many of our lenders. During the event they came walk from booth to booth to discuss their business financial needs. Again as the mayor mentioned

in an informal setting, the event will take place again ON AUGUST 5th, NEXT 00 at parmer events. We invite each and every one of you to come. Please come because you will get to meet the lenders, in the future when you do start your business you will be able to have your financing that you need. Thank you.

>> Thank you. [ Applause ] palmer. >> I would like to just -- we echo and build on vicki's thanks to the mayor and the council for their continued support and for our city manager and his staff because without those supports we wouldn't be able to having our meet the lender and other events. I want to publicly thank you for your continued support, we continue to work hard for austin's small businesses. >> Thank you, rosy. We will take a picture. >> Mayor Leffingwell: So it's my pleasure this evening to -- to award a distinguished service award to one of our city's finest employees, bethany ard, a life guard at one of the city's swimming pools and actually recently exercised that skill and saved the life of a young person who was drowning in one of our pools. Which pool? Oh, a back yard pool. She was off duty. I stand corrected. But a true act of heroism. Unfortunately she is not able to be here and accepting on her behalf is jody jay. [ Applause ], jody is the director of aquatics for the city's park and recreation department. We're glad to have you here. I'll read the award. Distinguished service award for a quick response put her safety training into action, bethany ard is deserving of public acclaim and recognition. Although off duty and attending a neighborhood party, city of austin life guard bethany ard sprang into action when a four-year-old girl was pulled from the bottom of a back yard pool. Bethany applied compressions while the girl's father breathed into her lungs. After the fourth round of compressions, the child started breathing again. arrived soon after the girl recovered completely from her near drowning. This certificate is presented in acknowledgment of bethany's laudable action in this life threatening division on this 29th day of july, in the year 2010. By the city council of austin, texas, signed by myself, mayor lee leffingwell. Congratulations and once again, thank you for the good work that do you at the city. You must have trained her well. She did good. Would you like to say a couple -- >> yes. >> All right. >> My name is jody jay, the acting aquatic program manager for the parks and recreation department. Every day I get phone calls about staff and things that are going on at our facilities. One day I got this phone call and I can tell you the only words that I can express were proud. I was so proud of her, and her ability to react in a stressful situation, recall all of the training she had received and save the life of a beautiful four-year-old girl. And in addition, I was proud of the staff we have with the city of austin parks and recreation department. Their ability to train over 700 life guards that we have out at our pools every day and out in our community, prepared to help in an emergency situation. And it just says a lot about the people that we have working for us and the young people we have out at our pools, saving lives every single day. They might not make a rescue, they might not do cpr, but they are helping to save a life every single day. It's a reminder to all of us, get out there, get trained and learn cpr and first aid, because you never know when you are going to need to react in an emergency situation. That's all that I have to say. Thank you. [ Applause ] should we are out of our live -- we are out of our live music and proclamation recess. And so we will begin by -- by picking up on the item that we left to -- put on pause, when we went on recess and that is item 105. We still have about 27 minutes of scheduled speaker time remaining. The next speaker is gabe bigger. Gabe bigger. Gabe signed up neutral on this item. >> Thank you, council, i thank you everybody for being here today. I'm actually [indiscernible] with the settlement. I think that we should go ahead and pay the sanders family their sum. Yesterday I saw all of you guys on the news saying the budget for 2011 wasn't that bad, maybe we should just cough up the money. The way I see it, there was three major failures. Number one being the a.p.d. Completely failing. I want to remind some of you guys what was reported because there has been a lot of dancing around on whether or not they have read the full report. So definitely the officer's

action action S are definitely in question. He was suspended for no camera. Also no plan, no announcement as the initial day the -- the chief's initial remarks, saying that this was a justified shooting without even looking into an investigation, without even looking automatically at the actions of his officers. You know, I lost a brother when I was 10 years old to murder. That was never solved. I witnessed a botched investigation myself and watched my mom grieve through the process. They had to collect money through the -- through the community because we didn't have a lot of money. We had the -- we had to collect money through the community to hire our own private investigation who said they got the guy but the police botched the investigation. I have witnessed that firsthand. It's devastating to a family. It's devastating to a community. And this is a perfect parallel, an example, of why I think we should do the moral thing and go ahead and pay the money. You know the body of young nathaniel sanders was left on the hot concrete for six hours, six hours. That's unacceptable. I do not think the family appreciated that. And I know that I wouldn't as a brother. Also, we ignored the citizens' review panel and police monitor's recommendations. They recommended that the officer be suspended for 90 days. The chief chose to do otherwise and nobody has held them accountable. The internal affairs investigation, obviously that was biased. We lost a detective, a veteran detective out of that issue. >> That's right. >> You know, the city failures, there are so many to list. For one we had a city attorney redact the entire \$62,000 key point report that the people paid for. What is that? I mean poor decisions by the city officials, recently i also read that the mayor called the key point was just an opinion. A \$62,000 opinion. I voted for you, mr. Leffingwell. You know I'm very disappointed in your statements along with mr. Martinez, I've heard on the shaun rimus show, said there was four avenue that's they went that all concluded that the officer was not at fault. martinez, I would just like to say I don't know which report that you read, that I would like for you to take a look at the key point report again and read it in fine detail. You will find that not all four investigative committees had the same conclusion that you did thank you. >> R. >> Mayor Leffingwell: Thank you [ applause ] next speaker is wayne vincent. >> Thank you, sir. >> Wayne is signed up against. >> Mayor, mayor pro tem, city council. It is indeed an honor to stand here representing 1600 men and women who patrol the streets. And -- and keep the city safe. In the early morning hours back in may of 2009 there was a police confrontation that turned deadly. The end result was the -- the tragic death of a young man. Since that time there have been a number of investigations, community and media have had endless discussions and speculation in all quarters of the city. For the most part the community by which police officers are -- are a part of that communities, have watched patiently as this process unfolded. The process to find out what happened, seek answers, more importantly, see what we can do to increase efforts to keep these situations from occurring. During this process, this event was reviewed by the criminal courts. This events was reviewed by -- by the police department administrative divisions. I believe a -- basically a -- a review was done that was paid for. And as we watch all of this unfold, there's one last -- there's one last leg of this process. And that is the civil trial. What is being proposed here today is to stop that process in its tracks. I think at a time when the community is struggling, with what happened, and as we all try to move forward, that this is an excellent opportunity to have a jury of our peers, taxpayers by the way, have an opportunity to see all of the evidence in this case, and to have the case argued by professionals and have all of the distractions, the misinformation, filtered out, and live by that process of a jury. What you are asking to happen with this proposal is to circumvent that jury and replace it with a political entity. I don't think that's appropriate. Now, there are some that will say well settlements are done all the time. Lawyers, threatened litigation, and other lawyers recommend that we pay some money to make this litigation go away. In some cases that might be a good business decision. But this



isn't a business decision. A young man lost his life. And we are still, as police officers, want all of the facts to be weighed by a jury of our peers. If you decide that this settlement is the way to do this, you will deny the community that trial. And you will agree with plaintiff's attorney, who has already said, the spirit of this settlement is that the city has determined that this was an unjustified shoot. That's unfair to the community. It's unfair to the taxpayers, and it's unfair to the police officers. We ask you to vote no to this settlement. And let this thing go to a jury. And let the process pl out. Police officers live and work and die under that process. And I'll add one more thing, if there was any one of you or as a collective body you were accused wrongfully of some kind of malfeasance of office or misappropriation of funds, I promise you, none of you would say well let's settle this thing and make it go away. You would want your day in court. And that's what the police officers are asking for, too. Thank you very much. [ Applause ] >> Mayor Leffingwell: Thank you. Trevor goodchild. Signed up neutral. Katy brewer, is kathy brewer in the chamber? No kathy brewer? Mary krennick? Is mary krennick in the chamber? You are? >> [Inaudible - no mic] >> Mayor Leffingwell: You will have to give me your name again. >> [Inaudible - no mic] >> mary krennick. So trevor you have a total of six minutes. >> Can you play the video? >> Videotaping? [Video playing] >> supposed to be the -- -- owei'm here representing or on behalf of -- of apac, as well as tag and a hip hop community group called run this town. I am a local mc, in 2005 i was tasered for playing classical guitar on sixth street which gave me back problems for months, as well as burn holes in my left arm and in my back which were sustained from a point-blank fran frances montenegro represented me. When push came to shove the city didn't want to stand behind the police department's officers violent attack on an unarmed guitar player. I received almost no medical attention when I was tasered despite my injuries. After I pushed it for jury trial they dismissed it. When I was getting booked in the downtown justice center, the arresting officer started aggressively yelling at each other in a very unstable way. I wish that officer james williams along with officer hugenot, badge 2568, officer nash would have been drug tested as they seemed to show signs of acting both physically as well as emotionally unstable. When we are more afraid of the police than we are of the criminals there's a serious problem in the city of austin that is not being addressed by internal affairs. The internal affairs I took a complaint to. And they took pictures of the burn holes in my arm and in back and did nothing but exonerate every single one of the officers involved in the case. I read about people that were once alive. Before coming into contact with the austin police department. Let me ask, what do daniel rocha, jessie owens and michael clark have in common? Besides a darker skin color than the officers they encountered? They were all unarmed. Preservation of life clause says a police officers duty is to protect the life and property of residents. It is the policy of this department that officers shall only use the minimum level of force that is reasonably necessary. I don't call shooting someone a minimal level of force. Even in my case, being profiled as homeless and getting tasered for playing guitar in the music capital isn't what I would call serve and protect. It isn't okay when the prosecutor of my case informs that my use of big words made the arresting officers angry, which ended up in a physical assault on my person. Police accountability shouldn't be an elephant in the room but a way to protect innocent lives from ending. Raise the standard of living and professionalism where life and death means more than acting out some drama than pretending you are on a cops tv show. Separate -- we don't need titles like police officers if there's no distinguishment then them and -- between them and everyone else that wields a weapon. There is honor in caring after the people you are supposed to protect. And not breaking that trust with acts of violence that divide us by race, class or creed and the words of , and the process of gaining a rightful place, we must not be guilty of wrongful deeds. Let us in the -- let us not seek to satisfy our thirst for freedom by drinking from the cup of bitterness and hate

thread. Hate crimes bill tread. It is a -- hatred. Lives are literally at stake. Police accountability is all that stands between being a hypocrite and deciding to care about those who depend on you. If city council cannot answer the cry that comes from the family such as those of nathaniel sanders, junior, something is wrong and has not been fixed you are no better than the criminals who supposedly create this environment of fear and distrust in the first place. We cannot fight fire with fire. Hatred with hatred, force with force or ignorance with nor ignorance. If city council wants to repair the open wounds between the police and the citizens of austin, texas, then simple damage control is not enough. It is not enough to scotch tape and super glue together a solution. We the people need your intelligence, compassion and understanding. We the people need you to put yours in our shoes, so that we can use the common grounds that we have to build a better future. Thank you. [ Applause ] >> Mayor Leffingwell: Thank you. Next speake ashton cumberbatch. Ashton, not in the chamber? He's signed up for. James price. James price is signed up for. Welcome, you have three minutes. >> Greetings to all. Name is james price. I'm a performing hip hop artist, community actiist, actor, even had a gig as a film producer here. I am african-american but by all means I am not a criminal. So when I'm out here on the streets, that's what I'm treated as. A criminal. By austin police. You know, you try to reconcile with them, compromise, you know, show them the most -- utmost respect, but that goes to one ear and out the other. The issue at hand is that police themselves do not fully know the law. For austin police to be the highest paid officers in the nation, they are the most poorly trained. I have witnessed officers announce false charges to arrest a person downtown austin to pulling a person over just because of the neighborhood they live in in east austin. Officers linda julie schroeder, michael olson, officer ken turner, all had common entities. They worked for the city of austin, they were all austin police employees, they were all fired for misconduct or excessive force or abuse of power. If this pattern continues, then why not cut funding that the police union screams for constantly? I believe they have what, more than half of the budgetings to them because they wanted, what, more police officers because the streets are unsafe? All this stuff I reading about austin being the most safe city and it's because of the people that live here, not because of the police. Yeah, they do play a part, but most people here have common sense, so they are not going to start up crime for nothing. I don't believe that. The city of austin has a \$4 million reserve for lawsuits. 750,000 Would not resurrect nathaniel sanders. It will not heal the bullet wound in his chest. The key investigation found inadequacies in the investigation of the internal affairs. A city attorney resigned, if I'm not correct, and the internal affairs employee was fired for misconduct and sabotage. The key point, final conclusion, was redacted by the city. Which defeats the purpose of hiring key point for it's neutrality and transparency. If you vote against this item, then you are sending a message to the communities that police can get away with murder and african-americans and hispanics are the prime targets. Thank you. [ Applause ] >> yes, sir! >> Mayor Leffingwell: Next speaker is akwasi evans. Signed up neutral. You have three minutes. >> Akwasi evans, publisher of the observer newspaper, good evening mayor, councilmembers, thank you for your time. I'm here to stand neutral because nathaniel sanders was 18 years old. With a possible rich life ahead of him. If nathaniel sanders had straightened his life up, gotten a job, earned \$50,000 a year, until the age of 65, he would have earned \$2.3 million. I think life is priceless. You think \$750,000 is -- is going to heal that family? I think not. I think that we need to heal that family any way we can, so I support a settlement that they agree with. But if you go to court, i hope they win 5 million. Now, we've had a lot of progress made with the police department. Working with the aclu, naacp, the police are doing a much better job than they did when I first moved to austin. But I know that police commit crimes. And as you were told by apac, whether or not you settle with the family, nowft settled with the community. You have not settled with the

communities. You can't settle with community until you start judging police officers like you do civilians when the same crime is committed. If I murder someone, if I kill someone, I'm going to be prosecuted for murder in some degree. Not slapped on the wrist and given impunity. When -- when the police shootings took place in the 1990's, reported those in my -- reported those in my papers. I became sort of a nemesis one night I went out shooting pool with a friend of mine, he dropped me off at my house at 10:00. Just as I got in my gate at 12th and Comal. A black cop with four big strong men, two men jump out, black shirts, black pants, with police on the shirts. They grabbed me, threw me in the car. Abduction. Attempted kidnapping. I called out to my friend, hey, David, David, David, and thank goodness my friend stopped. Because it was a red light and he got out of his car. He said who is that, David Van Ott, an attorney. So they threw me back out of the car and sped away. David filed a complaint with the chief of police, nothing was done. We have a problem here, Austin. And until you hold them accountable. Working with the Travis County Commissioners Court and the District Attorney's Office to judge officers just like civilians when they commit a crime, you will never have settled with the community. Thank you. [ Applause ] >> Mayor Leffingwell: Thank you. Those are all of the speakers that I have signed up who wish to speak. There are a number of others who are signed up neutral, for and a couple against. And those names will be entered into the record by the city clerk. So -- so Council the floor is open for discussion. Questions or a motion. Councilmember Spelman? >> Spelman: Mayor, we need to put a motion on the table. I move approval of the settlement. >> Mayor Leffingwell: Councilmember Spelman moves to approve the settlement. Is there a second? Seconded by Councilmember Morrison. Is there any discussion? Councilmember Riley? >> Riley: Mayor, I'm going to offer a substantive motion. And I'm -- I want to say a few words about my thinking on this. Let me just say at the outset that our consideration of this settlement has been a painful process. There are many very strong competing values at stake here. For some time now, what many of us have wanted above all is reconciliation. And a collective effort to move forward as a community in a positive way. And yet we find ourselves in an adversarial position with respect to the Sanders family and the unfortunate reality is that the litigation process we're mired in is not well-suited for healing wounds and moving on. That's not what the litigation process is about. The process is inherently based on conflict. And that conflict will persist as long as the suit remains pending. As long as the suit is pending one side or the other would ultimately get a jury verdict then a judgment. That's not about bringing the community together. It's about identifying a victor in the conflict. My hope has been that we could bring an end to this conflict in a way that recognizes the legitimate concerns raised on both sides. To say we're going to forego identifying one side or the other as the victor and instead we're going to lay aside our differences and move forward together. For many the critical question in dispute in the litigation is the basic question of whether the shooting itself was justified. Not whether Nathaniel Sanders' death was justified because it clearly wasn't. But whether this officer was justified in his conduct at the moment he saw that gun. Did he react reasonably to the situation he faced, especially when that gun was -- entered the picture. That's the fundamental question that the settlement purports to set aside just to set aside. The problem with the proposal on the table is that it -- it falls short of achieving that goal. In the past, we have paid this much money in officer involved shootings, but at least the last couple of times we did it was in cases in which we actually fired the officer, the officer was fired based on the determination that the shooting was unjustified. And here the -- here we're not there. We -- the process has not run its course in the way that's determined that the shooting was unjustified. And due in part to the conduct of the plaintiff's council in this case, paying the amount on the table is -- is perceived as an admission that the shooting was unjustified. So I can understand why the police and many others in the community feel like they are getting shorted in

this because we're -- we're -- we're foregoing the process afforded by the courts. Yet still reaching a conclusion about the officer's conduct that in fact that conduct was unjustified. So the question is where do we go from here? I've struggled with this, seeking to find some resolution that avoids the painful process of litigation and also avoids making a statement about what the outcome of that process would be. The resolution that represents a respectful middle ground between the two sides where we can acknowledge our differences and just agree to move on. Without reaching determination on that question in dispute in the litigation. It's hard to find that middle ground when the only tool at our disposal is the dollar amount. How do you quantify the -- the emotions and the -- that's at stake here and the value of a life? I agree completely with my friend akwasi evans that \$750,000 is nowhere near the value of the life of -- of nathaniel sanders, his life was worth vastly more than that. That's not the question on the table before us. The question is was that conduct justified, the conduct at issue in the federal court. And so we have to find some resolution between the two sides that resolves that question. We've got -- if the city were to go forward with the litigation, we know that there would be costs associated with the litigation. We know that -- and there is some value to putting it behind us. Right now the family has -- has indicated a willingness to live with 750, so I'm just trying to find some respectful middle ground between their position and the -- that acknowledges their position, but also acknowledges that -- the fact that we are not achieving a resolution through the court process. The best I've been able to come up with is yes it is absolutely arbitrary, but that's -- that's the nature of the process that we have before us. So I would propose that -- that we -- that we offer to settle in the amount of \$500,000. Which is far less than nathaniel sanders' life is worth, but it avoids reaching a conclusion on the basic issue at stake in the litigation. So that's -- and it -- i recognize that many people are going to feel probably both sides are going to feel offended. The effort here is to find some outcome that doesn't insult either side, recognizes that there are legitimate differences in the lawsuit has we are just going -- that we're just going to set aside for the sake of moving forward together as a community. That would be my -- my proposal. >> Mayor Leffingwell: Motion by councilmember riley to approve the settlement offer with the exception of changing the settlement amount from 750,000 to 500,000. Is there a second? >> I will second it. >> Seconded by councilmember shade. Did you -- I would like to make a few comments, too. I'm going to second that motion and [inaudible - no mic] with the understanding that with that comes what councilmember riley talked about, which is a -- a recognition that neither side is victorious in this case. One of my council aides recently gave me an article from the boston globe and I'm going to take a minute to read a few paragraphs. Rather than facts driving beliefs, our beliefs can dictate the facts we choose to accept. It can cause us to twist facts so they fit better w preconceived notions, worst of all to uncritically accepts bad information because it reinforces our beliefs, this makes us more confident that we are right, less likely to listen to new information and then we vote. The effect of this is only heightened by the information glut which offers alongside an unprecedented amount of good information, endless rumors, misinformation, questionable vearkses on the truth. In other words it's never been easier for people to be wrong and at the same time feel more certain that they are right. The points of mediation is not to decide who is right and who is wrong, but it is rather as councilmember riley mentioned, it's to identify a way to resolve a case to the satisfaction of opposing parties without going to court. And based on the media coverage and the considerable dialogue that i personally have had with people from all parts of this community, all different ages and ethnicities and all different socio-economic levels and I have spent considerable time learning about the facts of this case, I read the unredacted and the redacted version of key point and it is painfully clear that there is a tremendous amount of blame that's being assigned to all

the various parties involved in this case. And there is also a tremendous amount of misinformation and misunderstanding and there have been some absolutely awful things said by people on all sides of this case. Many of them completely uninformed and many of them down right cruel. And I love austin as much as anyone in this room and as much as anyone in this world. And I recognize very clearly that this is an important and symbolic vote. I have also prayed about this and really had a hard time with it. And I completely agree with the comments that have been made earlier about the fact that whatever happens today, we have a long way to go to achieve the trust that needs to exist between citizens and the city and its police officers. I have in the past and will continue to in the future actively participate in our continuing dialogue and i will do anything to strengthen and maintain the moral core of my community. But my promise, my duty, is to do the best that I can with the information that i have. And based on the information that I have, I sincerely believe that arriving at a settlement agreement that acknowledges that mistakes have been made on all sides but also doesn't come with the frame as unjustified shooting is in the best interest of the city. Again, that's why I'm supporting councilmember riley's motion. There is absolutely no amount of money that can sanders the peace that they deserve. There is no amount of money that can adequately compensate them for the suffering associated with the tragic loss of their son. I can't stand the thought of them having to endure a long and painful trial that continues to talk about where their son went wrong. For this -- for me the settlement is not about placing some sort of arbitrary value on his life. It's about letting them move forward and the community moving forward as we have talked about. I am voting a particular case, not on a city policy and this settlement agreement is currently being proposed by staff does not seem to achieve the goal of a settlement. It frames the situation as finally taking responsibility for an unjustified shooting. That doesn't settle things with the entire community. Nathaniel sanders had a gun. There is -- that is not -- [indiscernible] [inaudible - no mic] >> Mayor Leffingwell: Councilmember, councilmember, will you suspends just a minute. There will be no comments from the gallery. Any further comments, any further outbursts, the person making that outburst will be removed from the chamber. We have to maintain decorum. Thank you. Go ahead. >> There has been a grand jury, there has been a citizen review panel, there has been and with going to trial there will be more evidence made available. If we agree to a settlement, all of the discovery in the depositions of the -- of the -- of those that have participated thus far would become available. And a lot of these questions would be answered. The question of -- as councilmember riley said of a settlement is for both sides to put down their -- and go forward and again if -- if the jury -- if the decision has already been made, then it's -- that does not settle things with the communities. And that's why I feel like there needs to be some acknowledgment. That's why I support this motion. I think that it's clear that -- that our police officers work hard. And I know that not every officer's action is done precisely the way that we might wants it to be, just like every word a minister or lawyer or councilmember might say is not effective or well received by their respective audience. But police action needs to be held to a higher standard and that's why I respect the court process, if that's what it's going to take. But I sincerely believe that it would be less painful for this community to begin the dialogue now than to wait for a trial. But I can't support a settlement that -- that attaches to it a city's admissions of -- of an unjustified shooting given the circumstances as i understand them. And I also want to points out to you that since we began our discussions about the -- about the settlement, the circumstances and the facts as we understand them have changed. And the city has been dismissed from the case. So there are different, you know, financial considerations that would be made in that -- under those circumstances, so again this is not something tha easy. And I'm really suffering and I know that the community is, too, I look forward to moving forward, however we might get there. >> Mayor

Leffingwell: Thank you. Councilmember cole? >> Cole: Mayor, I want to thank my colleagues, councilmember riley and councilmember shade for really, really taking the time to go through all of the documents and think thoroughly about this case and try to come up with a balanced approach because i know you well and I know that's what you are trying to do. But I cannot support this motion for several reasons. First, we have simply never, to my knowledge, in the history of the city, done this. Where we've had a settlement offer, where we've instructed staff to go and negotiate in good faith and they have done that and come back with an offer, and we decide that it is too much, and put another number on the table. You -- I agree with you when you say you simply can't value a life. I'm not making any representations at all that 750 is a number versus a million versus 200,000, all I know is that we said go negotiate in good faith and gave directions that included this amount to this level. Not only have we never negotiated or put out there a counteroffer in a litigation case, we've never done that in real estate transactions. Are we all of a sudden going to be re-evaluating what we gave staff instructions to do? [ Applause ] or real estate? It's - - to me it's to -- it's bad policy because it puts us in -- in uncharted waters. And finally, the last reason is -- we simply cannot guarantee that the plaintiff's lawyer is going to accept our -- what is really a counteroffer. We just simply don't know that by this -- by this representation. But I know that this is a difficult decision. For all of us. But I simply cannot support the motion for that reason. [ Applause ] >>

Mayor Leffingwell: Councilmember spelman? >> Thank you, mayor, I will not be supporting is this motion, either, for all of the reasons that councilmember cole has so nicely laid out. And also for just a couple more reasons. It seems to me that the biggest argument against \$750,000, which when you get down to it it's an arbitrary figure, it could have been a different number. The only big argument against \$750,000 and really the only big argument that i have heard tonight, we've heard from a couple of dozen speakers, three minutes apiece, the only speaker who argued against the settlement was lane vincent, the only big argument i think that he had was that the lawyer for the plaintiff claimed in an unguarded moment that if we accepted the settlement, that we were somehow admitting something. Now, the text of the settlement very clearly says the city is not admitting anything. That officer quintana is not admitting anything. We are deciding not to go to trial because there are a lot of good reasons for avoiding a trial, we will get into those in a few minutes is suspect, but nobody is making any admissions at all. The only reason I think is if that adam lowe decides that he's going to argue something for some reason, all of us have got to believe it. No, I'm an adult. I can choose what it is to believe. I can look at the facts for myself and decide what it is that I think is true. If adam tells me accepting 750,000 is a settlement, somehow admitting something, admitting that officer was guilty to some degree of making a mistake or conduct of some sort, that's adam's opinion, not my opinion. I do not field bound to accept adam's opinion in this matter. I do not believe the rest of the city council should be bound, any of you, the austin police association should be so bound, we can believe whatever we want to believe, whatever we believe is true. What I believe is true is \$750,000 is more than i think that I would like to pay. I would like to have paid \$500,000 or some other smaller number. I always would like to pay less money to benefit the taxpayers. But this is not an unreasonable figure. We do not have another opportunities to undo that figure. That figure is what it is. Weeks ago, months ago, through the negotiation process we might have ended up with a number like \$500,000, but that is simply an unrealistic number right now. Adam lowey and the sanders family are not in a situation publicly to accept that number, I don't believe they are going to accept that number. I think offering that number as an alternative is really a non-alternative, really simply another way of saying know to a settlement. I think we need to say yes to a settlement. So I'm voting against this motion. >>

Councilmember morrison? >> Morrison: Thank you, mayor. I know everybody on this council, everybody

in the communities has been thinking long and hard about this. I want to really follow up on some of the things that councilmember cole and exel councilmember spelman have said. First of all, we have been working with our attorneys a lot. Over the past days and weeks and farther than that, looking at what would be a reasonable settlement. And beyond picking a number out of the air, there are reasonable ways to actually sort of figure what would be a reasonable settlement. And this 750 fits exactly within that. So I think that we need to keep in mind that it's from a business perspective. From a financial, legal liabilities perspective, removing, you know, the humanity of the situation for a second. 750 is an entirely appropriate amount for us to move forward on. To follow up on what councilmember spelman was saying about one ill advised misstatement, somebody saying something does not make it true. It is not true that we do not support our police and that -- that this settlement would show that we do not support our police, that is just not true. I think that we need to keep in mind that a settlement is an important piece, I think, of our community healing. There have been calls, obviously, for folks saying that we need to go to trial and have the full dialogue. A federal court case is not a place to have a dialogue. The attorneys on either side are trying to constrain everything that the other side is saying. It's not the place to have a dialogue. To move a community beyond where we are today, which obviously we have a lot of need to do, we need to have linder vincent have offered to do and I know that I and everybody on this council will be fully supportive and in any way that the city can help make that happen in a productive way. We will want to do that. For me it's clear that really the most important question is what is the best way now for our community to move on and -- and it's really interesting and on a healthy path and a path to closure and two weeks ago, when we started, you know, really looking at this decision, it felt like a very complicated decision to me. Today it feels very simple. And the simple answer for me is that it is right to accept the settlement as recommended by the legal staff. [ Applause ] >> Mayor Leffingwell: Other comments? I'll just say this has been a very difficult issue for all of us. Up here on the dais. And it's been difficult for a very long time. It's been going on for over a year now. I remember last may in 2009 when all of the council went out to gymnasium in northeast austin and listened to the community. On this issue, it was freshly done and we wanted to hear the community and we wanted the community to know that we cared. This was a tragedy. I still believe that. It's a tragedy. The tragedy for the sanders family, plain and simple. Unfortunately, nothing we do here or nothing we can do here even tonight will change that for them. The facts of the case have been very complex. There's been a lot of evolutions along the way. There have been a lot of different bodies that have looked at this complex of -- set of facts. The settlement proposed \$750,000, it's kind of a number that's just sort of picked. The substitute motion number of 500,000 unfortunately in my view is not much difference. There could be a business case, I believe, made for a number that would basically cover the city's expenses and litigation going forward and so forth and I don't discount that. But that number is far, far below either one of the numbers that we're talking here today. There's been a lot of discussion about -- about what message does it send to make the settlement offer? And that -- that message, of course, has been people with -- with -- made the allegations, statements in the media, that this settlement, this proposed settlement, sends a message that the city of austin admits that this was an unjustified shooting. I don't admit that. Councilmember morrison doesn't admit that, I don't think anyone here on the dais admits that. But that's one of those things that once it's out there, that genie is very, very hard to put back in the bottle. In fact impossible. I think. To the point where we have to perhaps the way to resolve this issue once and for all and I agree with councilmember morrison by the way, that probably not the most open venue for ruling out all of the possible facts is the court because I know people are trying to not let information get out in court. Rolling out of the possible facts. But a

settlement issue i think is going to be even more closed than that. There's going to be less information than that. I think that really after much thought, I think the best shot that we have at this now is to let this process go forward, let the facts -- let a jury of peers make the decision. It will be the third or fourth decision that's made by different groups of people. Finally, I don't want -- i don't want to dwell on monet moneizeing this issue, but what we're talking about here is taking taxpayer money from other tax paying citizens. Some would argue that we do that perhaps too often around here, but I can assure you that I personally try very hard to -- to never do that. I may not always see. Sometimes it's necessary, sometimes it's justified. But I would submit to you that before we take taxpayer money, and give it to somebody else, there has to be a clear and compelling case for that transfer. I don't doubt that -- that many of us up here on the dais and many up here on the dais agree that clear and compelling case has been made. It hasn't been made to me at this point. My heart goes out to the sanders' family, if there's anything that I could do to make this situation better for them in a meaningful way, I would do it. But at this point I think that honest and most open way we can proceed is to reject the settlement and let it work its way through our system of justice. Any further comments? >> Spelman: Centerpoint power of information, mayor. In the event this motion is supported by four or more members of the city council I understand what will happen. But what will happen if there are not four votes for this motion? Will -- >> Mayor Leffingwell: If there are not four votes for the substitute motion it's then we will automatically consider the main motion. >> Spelman: Fair enough. >> Mayor Leffingwell: That would also require four votes for passage. >> Martinez: Mayor? >> Martinez: I will be brief in my remarks, but I'm going to go ahead and make them now. My position on this particular case has been public for almost two weeks now. It's not because I don't believe there were no mistakes made. In fact, I believe there were many mistakes made on all sides of this. We need to continue learning from those mistakes. But I also agree with my colleagues. And what I know is true is that no matter what we do tonight, this is not over. What I also know is true, no matter what we do tonight, we remain leaders of this communities and have to work together. And we have huge responsibilities. We have to take corrective measures, to be proactive, to fulfill our commitment of accountability to our community. I also know and I agree with the other comments that -- that I do not believe if we take this to trial that we are immoral. I do not believe if we go to trial that we have no integrity. I choose to believe that the system we have in place is this body making difficult decisions and no matter what decision we make, somebody agrees and somebody disagrees. And it will be no different tonight. I don't believe that a community can come together if we agree to a settlement. I don't believe in the long run that we can all agree with what happened and move forward. I do personally feel, though, that a community can much easier -- much easier understand and come to agreement when you let it go through the justice system process that we have in place. And that is through a jury trial. And that is why I believe we should continue forward. This is not -- my position is not just a rejection of a settlement offer. It's more about moving forward in the process that's available to us and that is through a federal jury trial. And so I will remain in that position, mayor. I won't support this substitute or the main motion. But I do want to acknowledge my colleagues, councilmember shade and riley for -- for trying to do what they feel is best for the entire community and that's what we're all trying to do, regardless of whether we agree or not. Every single one of us believes that we're trying to do what's best for our entire community, because that's who we are leajted to represent -- elected to represent. Thank you, mayor. >> Mayor Leffingwell: Anything further? Councilmember shade? I would just like to clarify there are situations when we authorize staff to negotiate and if we don't -- until it's approved by the council, it's -- it's not a done deal. And so I just want to make that point, that that does happen. Many of



the times when staff starts to negotiate and comes to some type of an agreement, be it economic development, real estate purchases or anything else, it doesn't even make it to the dais if -- if you know sometimes because it's so clear that -- that the negotiation didn't achieve what we tried. In this case we aren't able to go back to the negotiating table, but i just want to be clear that the rationale from my perspective is that I still believe that it's important for the community to move on and the faster and the -- that we do that the better. And I -- I just wanted to clarify that. This isn't about trying to negotiate dollar amounts or anything like that. But I did want to clarify that point and also recognize that, yes, this would be something that we can't guarantee that the other side would accept but that would be at least their choice. And there's no other way to make that offer without doing it in this kind of a public forum. So that's I just wanted to clarify that. With nothing further, we will consider the substitute motion by councilmember riley for a \$500,000 settlement. All in favor of that say aye. >> Aye. >> Mayor Leffingwell: All opposed say no. >> No. >> I believe I'm correct to say that motion fails on a vote of 5 to 2. With councilmember riley and councilmember shade voting in favor. So that brings us to the main motion. By councilmember spelman. Which is for -- for the published settlement offer. All in favor of that motion, say aye. >> Cole: Mayor I have a comments. [One moment please for change in captioners] >> so the premise that somehow if we go to trial we're going to gain more transparency is just simply not true, and I think council member morrison did a wonderful job of explaining that, and probably more importantly i think all of us have expressed a desire that we have community reconciliation and that we move forward in a positive manner, and we know, i think, on a national level, simpson trial that that certainly did not result in community reconciliation. Locally we know that with the feeder avenue trial, that that certainly did not result in community reconciliation. So I just think that is simply a faulty premise, and the overwhelming evidence that that is a faulty premise is the fact that over 90% of cases settle because you simply do not know what is going to happen, and even after you go through that process it is a win/lose, and in many cases even a win feels like a loss. And I have been blessed to be close to people who have actually defended police officers, and not to at first recognize the pain of the plaintiffs and their family, I can tell you that officers suffer from that process. That is not easy on a family, and it is certainly not easy on an officer that has been accused of a shooting death. And I think sometimes because that really does not occur very often in our community to the same degree that it occurs in other urban communities, that we all forget that, but it's a big deal to tell -- even if our main concern -- and i don't think it necessarily should be, but it should be one of our concerns, is our officers. It's a big deal to tell them, go to trial, and their families, because that is a painful process. And many of them never get over that anyway, because it's such a traumatic experience. Finally I will say that just like mayor leffingwell brought up some history here, that it was election night and I was up for re-election, mayor pro tem martinez, mayor leffingwell and council member riley and spelman, so it was an unusual circumstance because there was actually five council members up, and i distinctly remember going to council member shade's victory celebration and 00 and then going to council member riley's celebration and leaving there about 2:00. And after my head barely 00 in the morning, I got a call about the sanders case. And several calls after that updating, and there was such a traumatic situation going on at the apartment complex, and it was just -- it was like welcome to re-election, but I haven't taken the oath yet. I'm not sworn in. So let's -- let's just be very -- very difficult situation to deal with. And I remember finally getting up to city hall and going to mayor wynn's office and walking in and saying, what are we going to do? And he said, sheryl, we're going to do everything we can to make this better, and I'm going to support whatever you think needs to be done. I understand that this is traumatic on the african-american community, but more importantly I know you

understand that this means our entire community. And that is always a difficult balancing act in place 6 when you're elected at large, but we talked about it and made some decisions, and I told him, well, you know, this is difficult, but I really -- i need to talk to my colleagues. So one by one I called them. First my old colleagues and then my potential new colleagues. And I -- that was very important because that was kind of -- this is our first challenge as a new council. This is where the rubber meets the road on our ability to govern, have integrity, stand together, face the community, to say come what may we will deal with it in a responsible manner. And mayor wynn called a press conference, and we agreed that I didn't need to say anything because this was just not an african-american problem. This was an entire community problem. And I remember everyone being there, and mayor wynn looking at me and saying, well, can we go? And I remember when I talked to mayor leffingwell they were actually considering a press conference because him and former mayor pro tem brewster McCracken were in a runoff. Are they here about the runoff? No, they're here about nathaniel sanders. And mayor leffingwell did not hesitate to come to the conference. And I remember mayor wynn said, you wanted everybody. So can we go? And I looked around and i said, wait, council member spelman is not here. And so he called his friend of a friend of a friend, and they said he's on his way. He was in class. He took a taxi and he walked in in birkenstocks and a backpack, and mayor wynn made the announcement and all of our plans. And I remember that because at that moment I thought, sheryl, you can do this again. You can do this again. You're not going to always agree with these people who are surrounding you, but the very fact that they got here in less than 20 minutes, all of them, is a positive statement for this city. So I believed that all of them, regardless of their vote tonight, will stand with us to move the city forward in a positive direction with our relationships with law enforcement, but I do think that the action we must take to put the city first, and i mean the entire city -- i don't mean the thousand that worked on our campaign or the 500 who gave you money or the 10,000 that you might get emails and hear from or the 50,000 that voted for you, because when we raised our hand we said we were governing for 750,000, whether they voted or gave money or did anything. And I know that that is what we are all trying to do. So with that I will move approval. >> Mayor leffingwell: okay. Council member spelman. >> Oh, council member spelman. I'm sorry, you made the motion. Yes. council member cole has been even more eloquent than usual, and i feel a little bit at a loss to add anything to that, but let me add just a couple very small things. There was a comment a few minutes ago that in order to protect austin taxpayers we had to vote against a settlement. In fact, the opposite is true. If we are trying to protect austin taxpayers we need to vote in favor of the settlement, because a settlement guarantees the taxpayers will have to spend no more than \$750,000. If we go to trial we need to spend a couple hundred thousand dollars to get ready for trial. If we win, I'm not sure what winning means in this context, but if the jury finds for the defendant, then that's all we'll be out is \$200,000, and probably that's what's going to happen. I think the city has a slightly better case than the plaintiff does. On the other hand, if the jury finds for the plaintiff, then we're out \$200,000, we're out something like a million dollars that the plaintiff is going to be asking for legal fees and court costs and we're out whatever judgment the jury finds in favor of the plaintiff, the defendant. Adding it all up we're probably talking about millions and millions of dollars. The plaintiff is asking for \$10 million. I don't think the jury will give them \$10 million, but the jury is very likely to give them a few million dollars. You can do the math yourself and you can apply whatever likelihood it is that you think the jury will find for the plaintiff or defendant, but based on all the information available to me given to us by our lawyer and based on everything else I've seen about this case, i think the only realistic thing to do to protect the taxpayers is to vote in favor of our settlement, to cut our losses and in addition, to do the right thing for all concerned. Let me mention one other thing.

There's been some discussion that the best way to get the totality of this record -- i see your sign -- the best way to get the totality of this record into the public arena is through a trial. I think exactly the opposite is true. All of the information that has been obtained by the city in discovery, all the plaintiff's information, all the defendant's information, is available from the city right now. The statesman has put in an open records request for all of it and they're going to get all of it with, it turns out now, just one exception. That's the unfounded complaints made against officer quintana in his previous career that were not founded and therefore are not public record. They're protected by state law. They cannot be released by the city, and, in fact, all information about them has to be returned by the plaintiffs to the city. They can't be released to anybody. State law protects them. Everything else, all the witness states, all the documents, the forensic reports, it's public records, and the state man will get as soon as the city gets through the open records request. The best thing for us not to rely on what happened is for us to rely on lawyers for what facts are admissible and which are not and how to spin those facts in front of jurists from not just travis county but all over texas, including level land and god help us, tulia. And relying on the judgments of those people who may have never been to austin a day in their lives, I feel a lot more comfortable having the totality, all the facts being available through the statesman, through our other media outlets and for us to reach our own judgments rather than to rely on judgments of people who may never have been here and may never see us again. I probably have more to say about this and I probably should cut my losses and keep my mouth shut. I need to say one more thing. I think we need to settle this case here and now because as long as we talk about this case, as long as we talk about going to court, as long as we talk about appeals, because an appeal is necessary and it's going to be months and months and maybe careers before we stop talking about all this stuff if we go in the direction of going to court. I think it's time for us to change the subject. We should stop arguing about who's to blame for what's happened in the past and we should expect -- accept responsibility for making sure that we do not repeat the past, that this never happens again, and the best way to do that is to accept the settlement and move on.

[Applause] anything further? In that case, all in favor of the motion by council member spelman say aye. >> Aye. all opposed say no. >> No. >> Mayor leffingwell: no. Motion fails on a vote of 4-3 with council members riley, mayor pro tem martinez, council member shade and myself voting no. >> Comment? council member. shade I think that it's incredibly insulting to suggest that any of us who voted the way we did has anything to do with the police union. And I was going to say this before. We have heard from so many citizens, to ignore the fact that there are a lot of ways to look at this, and to just ignore those people who -- just to ignore -- it's just as outrageous to ignore the fact that there have been so many people who distrust police officers, but it is just -- as every african-american male is not a criminal and carrying a gun, it is true that not every officer and -- not possible for me to guess what I would do in a 30 second incident when I'm confronted with somebody with a gun. So I'm just going to say that I did not make this vote to try to not hurt the feelings of the police association. That was the furthest thing from my consideration on this. I just want to point that out. Thank you. Council I, we'll move on to -- >> mayor, could I ask for a moment of personal privilege, or if I could ask for council member spelman or cole to ask me a question that I might address this -- >> council member spelman wants to ask you a question, he may. sir, it sounds like you're doing something extraordinary by coming up to the dais after we've taken a vote. If you could keep it very short I'd appreciate it. >> I will. >> Thank you, sir. >> One of the things that i want to say is that we cannot move forward if the past is always in front of us, and the past seems to always be in the front of us, as it relates to race relations here in the city of austin. And if we are to be the city that we are touted in national magazines and across the country, then we need to

get beyond the symptoms and the epidemic that is at this at the core, which is race. And I do feel that the matter that has been taken up here is a betrayal to the community, the entire community, and that betrayal is that the city asked in good faith to negotiate with the family and then midway in that negotiation we say that that negotiation is no good. All I'm asking us is if we are to move forward, then we as a council and we as people here in the austin community are going to have to be real sincere and much more than giving lip service problem of race here in austin, because if we -- be a city we want to be, nobody is going to tout this city and nobody will want to come here, and there will always be the matter of distrust and betrayal, which is epidemic here in this city. Thank you very much. thank you for your comments. [Applause] >> thank you, sir. >> Thank you, reverend. Council I, I believe at this time i will recess this meeting of the austin city council and call to order the meeting of the austin housing and finance corporation board of directors to consider that agenda. Do we have a representative from ahfc to take us through the agenda? >> If we don't have anyone here from austin housing and finance corporation -- >> good evening. My name is betsy spencer and I'm the acting treasurer of the austin housing finance corporation. Sorry, I came running. I'm here to offer three items on consent for your consideration tonight, item 1 is the approval of the minutes from the may 27, 2010 board meeting. 2 is the appointing officers to the austin housing finance corporation, directors to the board of directors of the hfc subsidiary, arbors creekside cormings, the austin -- bill as non 6 and the ahfc nonprofit corporation. 3 is to rescind prior order approval to execute a loan with calvin acquisition, ar its affiliate under the rental housing assistance program. The board approved this execution and negotiation of the loan april 2008 in the amount of \$1,100,000. Sorry, in general obligation bond funding designated for proposed multifamily development at 501 east oltorf. To date a loan has not been executed. We are proposing that the obligation of these funds then be allocated to two -- two projects that will fund permanent support of housing developments. In addition we'll be bringing forward another item to fund another project, the ivy. Overall these developments will result in more than 64 units of permanent supportive housing. I'm available for questions. >> Are you proposing all of these items as a consent agenda? >> Yes, sir. move approval, mayor. council member cole moves approval of items 1, 2 and 3. And second by council member spelman and third by council member morrison. yes, I would like to make a comment. Thank you. thank you. with regard to the obligation of the 2 million in bond money, that was for the -- that was for the sunny meade project, and when that whole rezoning approach was put together, the neighborhood was at the table, it was a very important element that there be a buy-down so that there be some 60% mfi. And I think it's a big disappointment for the neighbors that all of those affordable units have been demolished, they haven't been replaced, and I believe in the future when they are replaced it's very important that we still find a way to reach that buy-down of 60% mfi. So I just wanted to put that on all my colleagues' radar. Hopefully we will have a large affordable housing bond in 2012 and we'll be able to -- and maybe that will be the time they're starting up and we'll be able to actually re-create that situation. >> Cole: mayor? council member cole. I certainly understand council member morrison's concerns and also do recognize this as a sunnymead property and want to reemphasize not the same point but a different point, we still must be committed to joy graphic -- >> all in favor? >> Aye. opposed say no? Passes on a voatd of 7-0. Thank very much. Those are all the items on our ahfc agenda this evening, so without agenda we'll adjourn this meeting of the austin housing finance corporation and call back to order this meeting of the austin city council. And I'd like to go directly to a related item, to the ahfc agenda, that is item 42. And we have a number of citizens signed up to speak. Item 42 is an a resolution regarding the city's action plan for 2010-2011. So council, without objections or comments we'll go directly to our

speakers. First speaker is mark rogers, signed up against. Mark rogers. Mark rogers not in the chamber? Ted rone? Ted rone? Signed up for. Ted rone is not in the chamber. Jennifer macphail. Jennifer macphail? Signed up neutral, not in the chamber. Colin donahue. Colin donahue? Signed up neutral. Colin is not in the chamber. Charles clotman? Charles cloutman? Charles clawtman is signed up against. Welcome. You have three minutes. >> Thank you, mayor, council members. I am here to voice our concern. I represent the housing repair coalition. What we have in this draft action plan is a cut in the home repair coalition funding the repair dollars from 2 million from last year down to 1 million this year, at a time when we have built so much momentum. It is a blow to the knees of the momentum that we have created. The coalition, as you all well know, is a partnership between nonprofits that are receiving bond funding versus austin energy, austin water conservation, austin gas, to get a home repaired correctly, fix the broken foundation or the piers and the beams that are bad, fix the holes in the walls, bring it up to safety code, let austin energy come in and weatherize, other nonprofits come up and finish other things, do outside work, inside work. And do a whole home approach to our elderly, disabled, have a home that doesn't leak, they don't have to fear the rain, they don't have to fear the cold front, and here we are cutting it in half. I do not understand it. I know it's a budget restraint. I know there's plenty of other projects out there. We fully support them all as you do. I know it's tough decisions. But before you I stand saying you're cutting us at the knees when we have so much momentum. This program is just getting started and what is going to happen here is it's going to come to a complete halt. As representative of meals and wheels, we will be out of money this next month. We will have run out of this year's go bond funding. That's how fast it will go. We didn't get started until april. So in three and a half months we have finished and next year if this is cut in half we'll be through in two months. So what will we do the rest of the months that people call and have needs? What will we do with requests from council, we need this house repaired? Will we email you back and say we're out of money? It's not a good scenario for any of us. Let's try to find a way. I know this isn't the end of the road. We have two more months for final budget but while we're looking at this, the whole picture of hud funding and local money, please consider ways, find ways for the housing trust fund, or some other way of funding home repair. I rest in your hands, you're good people, you all care and I know it's a tough decision so I wouldn't have your job for anything [chuckle]. I appreciate you and thank you all. thank you. Elizabeth walsh. Council member shade. I'd like to ask a question related to the comments that were just made because I completely agree that this is an essential program and we've finally got it going and so I really wanted to understand sort of how the funding is working because I understood it initially as \$2 million and this year it's 1 million, confusing how things carry over. Could you talk about that? >> Sure. Specifically on the go repair program, last year \$2 million allocated to that program, 500,000 went to the hfc for roof repair, a million five was dedicated to the nonprofits, which we put out an rfp. Four were rewarded the 4 million five which was the remainder of the 2,000,500. This year we have a million five originally in the budget after the obligation that just occurred in the previous action. There's some additional funds that we're recommending actually go to the go repair program, which will put it about a million seven. And this year we are not proposing money go to the austin housing finance corporation for roof repairs. All of the money will go to the for nonprofits or the nonprofits that bid. So there will actually be a million seven from the nonprofits to do rehabilitation for the homeowners. So it's a slight increase from last year. >> Shade: okay. And that's great news. I mean, I'm also curious about once this goes forward, are there opportunities if some of the other projects don't come in at the cost that we're expecting? Because I realize that a lot of these are still just estimates. Is there an opportunity at that point to relook at this, given what the demand is and given now that it's -- it's such a

new program that we are just now getting to kind of see how it works? >> We have already made accommodations because of cost increases. Originally we had estimated that the cost for a house would be 5,000, but with the cost of the permitting, one thing we required for all of the participants was that permits be pulled on each house for the work. There was an additional cost. We accommodated that in the contracts, so we've actually already made accommodations to the contracts to allow for that increased cost to make sure that the contractors were pulling permits to work with all the help and safety issues were being addressed and there would be enough money for them to do the work. okay, and likewise if the other projects we're talking about in this plan come in at other -- at different levels, might we also at some point be able to look at adding more to this if -- >> absolutely. Absolutely. >> Shade: okay. Thank you very much. Appreciate it. >> Thank you. council member morrison. I'm sorry, was this a recent change? I guess I -- I understood it to be a million but now 7, and so did this just -- did this plan just change recently? >> Well, actually when we first presented the original draft we -- there was published on there a million five. cloutman pointed out that he thought we had an error in that chart, that it really was just a million of new money, and 500,000 of carry-forward, which actually that is accurate. There is 500,000 of carry-forward moving forward, there is new, after the obligation a few minutes ago we're recommending an additional 230,000, I think, go to that specific line. So that puts it at a million seven. >> Morrison: okay. So it's -- but 500 is from last year, so -- >> yes, there is a carry-forward. >> Morrison: all right. So the million that I was 2 over that. I think I understand. Thank you. >> Yes. Elizab elizab eth walsh? Elizab elizab eth signed up against. You have three minutes. >> I'm elizabeth walsh, doctor oh and the environmental sciences and engineering program. I'm proud to be here to represent the austin housing repair coalition, a group of 17 remarkable nonprofits for the agencies and utilities that are all united in the purpose of helping low-income families have healthy safe dreams, efficient homes to live in, where they can stay in the neighborhoods they've called home for years. As a coalition we are united by our desire to deliver these services efficiently and completely, eliminating duplicative work and improving the communication, resource sharing, expertise and fund capabilities of our coalition members. It's been such a joy to work with these amazing groups and their impressive leadership. So I want to thank you for authorizing the first \$2 million for this year, because your investment in this group made an amazing coalition come to life. We've gained so much momentum over the past year, so many people coming together and adding value to a system that otherwise could have been fragmented, needs not being meant. Weech accomplished a great deal, getting new home repair programs off the ground and running smoothly, greatly improving coordination of our efforts amongst different groups, effectively leveraging different pools of funding and even submitting a federal energy grant approval for our home retrofit model that could be retrofitted throughout the south and the nation. Secondly, I want to urge you to continue funding this program at this critical juncture in time, at the same time that we finally got it off the ground running hard with the go repair job, austin energy is taking off with stimulus funds and to be able to continue that momentum between two different groups, first to make the home's weatherization ready, austin first has to walk past 6% of the homes we visited because they're in such bad shape that they can't even do the weatherization work to make these homes in most need energy efficient. Today you have a great opportunity to support this effective collaborative, efficient effort to advance your key council objectives, improving the health, safety and resource efficiency of low income family homes in low income neighborhoods in our urban core, preventing homelessness, decreasing gentrification, and training a new generation of green and healthy retrofit officials. Ted ted roan who wasn't able to speak before would also be american youthworks and their green energy core have been critical partners and we're training a new

generation of leaders to capitalize on the regeneration program to invest in local communities. Communities. And you have a tremendous opportunity, even if you aren't able to find the go bond money, please consider spending that in the future. thank you. Michael willard. Michael signed up against, three minutes. >> Thank you mayor, mayor pro tem, council members. I'm michael willard, austin president of habitat for humanity. I welcome the opportunity to speak to you this evening regarding the action plan for this year, and the first thing I want to do is commend betsy spencer and anthony snipes in their great work trying to pull together this plan, but my main issue about being concerned and speaking against the action today, first of all is just to the fact that we have to recognize we're in a tough spot. We do have to file a report with hud later this month, but at the same time the plan that was presented to the community, the plan that everybody got to talk about just changed, and it just changed because of the ahfc board meeting where you were able to deobligate funding and send it to some of the programs that were currently on the list. So you're being asked to approve a plan that none of the community advocates and community organizations that, you know, are going to work with the plan have had a chance to review or to comment on in total, and it is -- and it's changed as a result of that deobligation. So that's my concern. I do want to say, I must recognize betsy and the work that the department has done in putting the plan and listening to all of the task force and stakeholders who have a say in this plan and trying to accommodate their needs and wishes, but it would be helpful if we had a plan that we as advocates and as producers of housing and users of the fund had a chance to fully appreciate and wrap our arms around. Thank you. thank you. Greg smith. Greg smith signed up for. You have three minutes. >> Good evening, mayor and council. My name is greg smith, and I'm first speaking as a representative of the african-american resource advisory commission, and we do support the action plan that's before you, more specifically, the funding that's been allocated for the african-american heritage facility, and we -- the commission support that 100%. Secondly is I do support as -- I'm also the president of the austin revitalization authority, and I'm just here to speak in support of the overall action plan and the projects that are there that the staff has put together requesting the allocation of funds. I would say one thing to you, is that there are some programs or projects that have been funded that are multi-year funded, and I've asked this before, is that where there's projects where the funds would not be expended in that one year, that you may have an opportunity to allocate those or lend those to other projects that could be funded this upcoming year so you could have more activity going on and then as those funds come back you reallocate those to the original projects. That's all I have to say. Thank you. thank you. Michael getto? Michael getto? Signed up against. You have three minutes. >> Thank you. Good evening mayor, council members. I'm michael gatto. I'm executive director of the austin community design and development center. I've here to speak against the resolution, primarily due to timing. The resolution includes a plan which does not fund a project called the guadalupe saldano net subdivision, in the 2010 to 2011 time frame, relegates it to some future project list. This delay puts the project at risk of losing over a million dollars in funding from austin energy, who has partnered on this project and will provide the solar rays needed to achieve the zero net energy goal. Our organization has been working with tnbc on this project for over two years now and what's special about it is we've partnered with austin energy to make 60 of the 90 units achieve net zero energy while still achieving 100% affordability. This project is shovel-ready, and it's got already over a million dollars of city funding into it, so it makes sense to me to continue the momentum that we have and to fund this project in this current -- or next fiscal year's budget. Thank you. thank you. Those are all of the speakers that we have signed up who want to speak. We have several more who are signed up in case there are questions, and just registering an opinion but not wishing to speak. Those will be entered into the record

by the city clerk. So the floor is open, council, for a motion on item no. 42. I would like to ask some questions first. council member morrison. we received some questions from the roundtable, a letter with some questions in it. I thought you may have had the opportunity to speak directly with them and answer the questions already, but I thought it might be helpful if you could help me understand the answers and we could do this publicly so everybody can understand. One of the questions has to do with the moratorium, of course, and the plan right now is to lift the moratorium at the end of this fiscal year, which would be the end of september, if I understand. So one practicality is what is the plan for current applications? Will people need to reapply or are the current applications going to still be in the hopper once the moratorium is lifted? >> Any applications that we've currently received will still be in the hopper that we can evaluate. It will be a challenge for us because we are considering revising our guidelines for the new applications in the fall to accommodate permanent supportive housing to our stakeholder process. As many of you know, we've just started a stakeholder process on how we're going to achieve 350 units of permanent supportive housing. In that effort we are also looking at our current guidelines for application to prioritize permanent supportive housing or have additional points that could be contributed to that. It would be my recommendation, actually, that applications that we currently have may want to revisit those guidelines once we have them to see if maybe they might revise their application to accommodate permanent supportive housing as an option. In their conversations with some of the members of the choto roundtable they've compress expressed an interest desire they might meet that definition, or they might have an interest in modifying their project to accommodate that. >> Morrison: okay. And I know that it's been hard with a lot of folks with the moratorium going on and so I'm thinking a little bit about the timing. When will the new guidelines be available? I imagine some people will be interested in being able to move forward as soon as we start our fiscal year, so will our new guidelines be available for people to review and get new applications in in september? >> That would be our hope. We actually had a meeting with several members of the choto roundtable inviting their ideas for the new process. It's very important to us. This whole process we've had an awful lot of stakeholder input. We've tried very hard to engage people every way we can, in addition to whatever changes we may make to the application process, we want the users to contribute to that. So we invited them once. We'll probably invite them again as this evolves. Their input is very important to us so as soon as we have that all wrapped up we'll roll that out to everybody. It would be important to have that before we actually lift the moratorium so folks would know, but my guess would be it would all happen very close around the same time. We greatly appreciate the difficulty this has caused for folks. That has not been our intent at all. But the last thing we want to do is put ourselves in jeopardy to be able to achieve the 350 units of permanent supportive do. >> Morrison: okay. And I want to get back to something you just said about the input and the work that you've done with the stakeholders to make this process -- take it to where it is today, and i appreciate that because i think that -- I think we agree, and I appreciate that you do agree that when we can get the stakeholders at the table and part of putting the plan together as much as possible is we end up with a better product. So that's terrific. >> We've absolutely tried, especially in these last two months, we knew this would be a difficult process, as many stakeholder meetings as we've held, we tried as best we could to accommodate all of the input we've heard where we could. Obviously we've tried to communicate to everybody that we have a very large responsibility to try to meet all of the needs of the families that we serve, and in that it's been difficult to make these recommendations, but we -- it has been invaluable to us to hear what everybody says and how they say it, and that's our only intent, is try to do the best we can with what we have. >> Morrison: thank you. Then also I wanted to ask you about the --



you know, the fiscal work that's going on -- the financial work and audit or whatever you want to call it that's going on right now. Are we still planning to have that finished august 15? Or -- I guess that's the last date that I heard. >> We don't have a specific date right now. I can tell you we are moving much closer to an end date for that. It would be -- I'm reluctant to give you an actual date because we are looking at so much information. We have received some drafts that we're working with, and so we're getting much closer to the answer. I would hope that that would be the time, but I could not say for sure. I can just tell you that we're all working very hard to get to the answer as quickly as we can. and one of the byproducts of that work that you're doing held back on identifying any carry-over, as I understand it, from last year to this year. So we might keep our fingers crossed that when you're done there might be some additional funds to actually integrate into our plan for this year. So my question is, what kind of process can we expect for drafting a plan for the use of additional funds? >> We haven't gotten to the point of actually creating a plan to that effect because I've been reluctant to do that in case it doesn't go the way I want it to. I certainly hope that we have a positive result to that, but we haven't really gotten to the point of a plan in case we have positive information. Again, I would expect that we would try to receive feedback from folks, but I'm going to continue with the position that we have always held is the administrator of these funds, I think it's important that we make recommendations to folks, hear everyone's input, but as the ultimate administrators of the programs I think it's our responsibility to be able to put forth that. Once I know what the answer is I think that we can come back to you with a better plan. >> Morrison: okay. And I just want to give a nod to the folks here talking about the repair coalition, because it is a unique and absolutely fabulous program that's got such terrific movement forward now. >> We are thrilled with what they've been doing, absolutely. and then lastly, there was some confusion, and I think it might be helpful if you could just speak briefly to the allocation of the anderson cdc funds, because there were questions about why did we need to allocate all of that in one year, and also are there other options besides -- besides the geo bond funds -- the oh so much the -- so that the geo bonds can be used for flexible projects. >> At this time until I have the results of our reconciliation, the geo bonds are needed to fulfill this project. We've maintained that this is going to provide 24 units of very affordable, hopefully senior housing, on east 12th street in an area where it's definitely needed. We are putting all of the money forward. For us to be able to put a contract out on the street to bid for construction, I've got to have all the money dedicated to the project. So your timeline is as soon as we get this -- these funds committed, we can start with the architecture engineering so we can then put the hard contract out later in the year for construction, but in order for us to do that I've got to have all the money together to be able to put the construction contract out, hence the reason we've asked all the money be put aside. >> And that's our financial requirement for the city, right? >> Yes. >> Morrison: okay. And then pretty soon I think we can look forward to working on our 2012 bond package and hopefully we'll be able to get some really great additional funds for affordable housing. Thank you, betsy. >> Thank you. with that, mayor, I'll move approval. motion to approve by council member morrison, second by council member cole. Further discussion? All in favor say aye. >> Aye. >> Mayor leffingwell: aye. Opposed say no. Passes on a vote of 6-0 with council member shade off the dais. Okay. 30 in the morning. [Laughter] time for our 10:30 a.m. Briefing. Welcome. Are you going to combine them? >> Yes. >> Certainly -- we can certainly do that. >> Good morning, mayor, mayor pro tem and council members. Greg canaly with the finance department. We will -- there's two presentations, one we're going to walk you through related to a bond program, and I think we can quickly go through some of this because we've been through the audit finance process presenting much of this information. Just first off, we'll start with an overall bond capacity analysis. We

are, again, back in the end of June, council passed a resolution really asking us to come back to the council to talk about our bond capacity analysis for both -- not only the 2010 bond program but for the 2012 program laid out for the staffer as to explore. I wanted to go through the overview of debt and then get into some of these scenarios. First I want to talk about the city's debt. We typically issue debt to fund and finance long-term capital infrastructure assets. It's always a good practice for cities to invest in their infrastructure. It's a way to share our cost across generations. City has several types of general obligation debt that are backed by the full faith of the city. One we're talking about today is the public improvement bonds. They're the ones we go to voters for for voter approval and 20-year we typically issue. Certificate and contractual obligations. The tax supported debt is supported by the property rate. These numbers are updated per the budget proposal you saw yesterday. The proposed tax rate based on the certified roll is 09 cents is to service the debt on our existing principal and interest payments from the debt that we have previously issued. Going through our debt issuance, that's an annual process we do each year. In fact, council approved bond sale schedule today. That will come back to council. The process we go through is work with the attorney general's office, the rating agencies, and once we issue debt we make payments twice a year and that comes out of our tax rate out of general obligation tax service fund. The rating agency process, just to touch on that because it's an annual process we sit with the rating agency. It's a very important process to ensure that we are going through all the steps to get these bonds to market. We meet with them each year. They look at several factors when they do that. They look at the economy, they look at the management of the city, and I think these two areas I'll touch on, I think the mayor mentioned it yesterday. We are a very fortunate city, Austin. We survived the downturn very well, we're in a very good position from both our underlying economic situation. We've had some actual positive job growth since the -- in the last six months, and the decisions that the city council has made during the last three years financially has put the city in a very good financial core footing moving forward. And the rating agencies really understand all that hard work that we've done to accomplish that, and it is reflected in our ratings. They also look at our debt burden. We have a low debt burden compared to other cities. Our debt burden to av is only 1%. They look nationally at 3% even though our financial policy says 2%. This is just a chart showing you how we compare to our Texas cities. As you can see, our debt per capita is slightly over a thousand dollars, our debt to av again is 08%, and all of them are by the bond rating agency. We'll do this again at the end of the month to at all about the bond sale. Let me go to the scenarios for the bond sales. First and foremost I wanted to show you a picture of our debt structure. We issue bonds every year related to bond elections that we have passed, and we pay that principal and interest down over 20 years. This is the current situation of our debt structure. It would be going down over time in the absence of any new bond elections, and we have three more years of our bond sales related to the two current bond program and 2006 bond program. However typically most cities and our financial policy calls for us to go out and continue to invest in our city, and, in fact, our rating agencies, they always stress that point. They want to find that balance between managing the finances but also ensuring there is a strong committed investment into the city's infrastructure. So as we look at our now system try to determine what is available for potential bond elections, we have to make some underlying assumptions to get that, first and foremost is looking at the debt service tax rate I mentioned. Currently right now we're 09 cents so that is our starting point moving forward. We know we have remaining sales related to our 2006 bond program. We have to continue those for the voters' authorization. We also continue to pay our outstanding principal. This is like paying down your mortgage a little bit each month and that helps lower your borrowing cost and, in fact, helps create additional

investments in the future. We have to look at conservative av projections. Currently we're using the certified tax roll for fiscal year '11, negative .83% which is better than we originally assumed. Flat next year and moderate growth in the out years. We also look at our borrowing rates when we go to market, what it will cost us, and then we're assuming two bond programs. We know council is in the midst of working -- setting a 2010 program dedicated to transportation, which is a similar thing the city has done in the past, I guess hoping the rate agencies look favorably upon and council has now laid out a schedule, a plan, so to speak, for bond elections, looking at targeting november 2012 as the next potential comprehensive general bond program, and has directed the city manager to begin looking into that effort. And then just a quick kind of a fact how it works. Bond sales lag bond elections, so when we have a bond election and we go out and the voters approve authorizations like they did in 2006 for over \$500 million, we do not come back the next month and sell all those bonds, nor do we appropriate all those bonds. We stretch them out over the course of the bond program. That helps us sync up expenditures with the projects. It also helps us make sure we're not having high interest payments when we're sitting on funds. So, for example, november election we wouldn't sell that till the next bond election. So there's a bit of a lag between the bond election and when we pay principal and interest payments on that. And that's an assumption we work through. Now looking in the analysis, assuming we have a constant tax rate of 13 cents, we would see revenue increasing as our debt structure decreases, due to the existing bonds that we have issued. So then what we're looking at for the first 2010 bond program that again council is deliberating, looking at what kind of debt can we issue over the first -- next two years, what would that support in terms of the revenue that is above our needs for our current debt service payments. And again, we've been through this before over the last several months. We look at those first two years, again fiscal year '12 and '13, which is the time we'd sell the debt associated with the 2010 bond program. We are projecting there would be \$90 million in bonding capacity to be able to put on to the voters. So looking ahead to a 2012 bond program, we had to make some assumptions about that, knowing it's quite early in the process but we think it's important to lay out something for the framework what that would look like. Look at a november '12 election, again because of the lag between bond elections and bond sales. Bond sales wouldn't start until 2014, through 2019. And then we ran a variety of scenarios to determine what it would look like to really, again, put a framework around a potential bond program. We looked at a scenario of keeping a tax rate constant all the way up to adding four pennies to the tax rate and ran those numbers based on the assumption that right now a penny generates about \$8 million in revenue and that supports about \$130 million in debt. I'll stress, and I'll stress this again, these are debt scenarios only. We have not at all begun the process of looking at an assessment of what any projects would be going into that. Obviously we're working on large projects including urban rail, but these are really just looking at it from a financing perspective, not looking at what would fill up any potential buck, whatever scenario was eventually landed on, again which would be a ways out. So just kind of graphing those out, continuing on the structure we've laid out, we have our existing debt structure, lay on different scenarios of different tax rate structures and there are the lines you see there. A constant tax rate all the way up to adding four pennies, and from that what we get is potential scenarios for a 2012 bond program, again keeping our constant tax rate of about \$335 million up to \$880 million for a four cent tax increase. So again, just to summarize our 2010 bond program based on the analysis that we have done now over the course of six months we've been pretty steady and consistent with this. There's \$90 million in a potential bond -- bond capacity over two years. Our debt per capita would go down to 1.37. And I want to point out in 2006, in the lead-up to the 2006 bond program when we projected with our debt per capita would be and

debt to av would be in 2010, sitting here in 2010, we projected 2%, our debt per capita would be about 1200 and debt for av would be 1.2. And as I remember now they are much lower than we projected. So these are conservative because we have to be conservative looking forward. Looking at 2012 again, we have these different tax rate scenarios, between 420 million and 880 million. Our peak debt per capita gets up to \$1,300 to about \$1,700, and our av -- debt 5 7, all within the bounds of our financial powells policies, and owl all definitely within the comfort zoning of what an agency would look at. I'll leave you this with. On the 2012 program, why these scenarios will change and really is because we're a ways out in terms of determining actual financial assess him, four years away from a first bond sale. There will be lots of assumptions that will have to be addressed, tax rate assumption, what the av finally does and we want to look at different options for assessing debts, programs for our geo debt. All analysis that will continue over into a 2012 bond program. So with that, mayor, we can stop for questions or we can continue on to -

- >> cole: mayor? council member cole. canaly, I want to thank you for staying so late to do this short presentation, and I'm going to do you the favor of just asking you one question, and -- >> sure. it is a question that I asked you in the audit and finance committee meeting, and I think it's the one that the public will care the most about, and that is the fact of -- that we're getting ready to set the property tax rate right now in september, so of course the bonds that we're talking about going out for authorization in november will have no impact on that tax rate, and I know that we generally issue bonds the following august of 2011, so really, the simple question is, if the \$90 million is approved in november, we recognize that there is a delay in property tax impact and that we don't -- we can't nail down exactly what the av values are, but just assuming the -- I think you usually use in the budget the median home price, what do we think on a monthly basis -- and I guess we're talking 2012 -- would be the property tax impact? >> The answer to that is first and foremost is the assumption we made is that we would look at a constant tax rate, so there would be no tax rate increase from what we would -- what council would be -- is in front of council for this september -- for the approved budget process. Projecting ahead to 2012, if we -- we would again assume that constant tax rate, assuming that av would grow slightly for your median house of about \$200,000, and that tax rates stayed constant for that median house of about it hundred thousand, you're looking at less than a dollar a month, perhaps 70 cents a month. Assuming your house increased in value. But I think the key thing to recognize is that the tax rate itself would remain constant. >> Cole: okay. So when you say a dollar a month -- and I thought in audit and finance the number was \$60 a year, but it might have been \$60 total over three years, but reconcile that with my memory. >> Right. You're correct, council member, two somewhat separate issues. With the -- for -- for the question at hand about the impact of the \$90 million bond program, that is less than a dollar a month. The 2012 bond program, depending on the scenario you look -- you look at, there would be a different tax rate impact during the audit finance discussion, we looked at scenario -- scenario 3 and we said for that average home it would be about \$60 a month to get you to about a 7, \$800 million bond program. Two separate bond programs, two separate impacts. Again, that future 2012 program analysis, that was something we would want to continue to evaluate over time. now, you told us clearly the only thing you know for sure is that you don't know for sure. >> Right. but I do think it will be important -- >> council member, I want -- appreciate the economist in me there. but I do think it would be important to be able to tell the public if we go out in november and it's approved, then we're talking less than a dollar a month. Now, if we go back -- out in 2012 and that's approved in addition to that, that's a harder thing to estimate, but we think that might be \$60 a year? Is -- >> just for one of the scenarios. Again, a little premature to determine what scenario that would be, but a no tax rate increase there would be very minimal impact. If we looked at a different tax

rate impact again, a lot of deliberations and discussion would need to go into that, looking at a needs assessment. But certainly there could be, as there was with our 2006 bond program. so your professional statement would be less than a dollar a month on 201,090,000,000 dollar bonds. 2012 is really hard to estimate, and it's so hard to estimate that you would really just not want to think about a particular property tax rate. And that's fine, I guess, because we need to know that. If we shouldn't be talking about it because it's too -- just say that. >> Well, I don't think it's -- I think we're able to lay out some scenarios. I think where it comes to is that we are -- I think it's an excellent practice to start looking at a framework out, and I think council, and we talked with -- we've talked to the rating agencies, I think they're going to very much appreciate that there is now a program in place for bond programs the way the council has laid this out. So we'll be able to talk about that. We were able to look at scenarios. What we're not able to do is choose what that scenario will be here two and a half years in advance. We have scenarios. Each scenario comes with different tax rate impacts. They each would have one. Again, scenario 3 you'd be looking at perhaps a \$60 increase, but again we're talking about -- we're talking three or four years out and I think the pertinent question is the 2010 bond program at hand, there's a constant tax rate, no tax rate increase, depending on the value of your house, what it does two years out, there may or may not be an actual increase for your tax bill. >> Cole: okay. So if -- I was asked in a speech, you guys have passed a resolution, you're talking about going out in 2010 and you're talking about getting ready in 2012, we understand it's your level-headed best guess. What is that going to do to my \$200,000 value house, and what is it going to do on average, assuming scenario 3. >> So on average for the next couple years, perhaps less than a dollar a year, and then at the end, looking all the way out to 2018, if we chose scenario 3 with 6 or \$700 million bond program, you'd be looking at less than -- looking at less than \$60 a year by the time the end of that program, so perhaps \$5 a month. Less than \$5 a month, by the time we get out to fiscal year '18, '19 or fiscal year '20. Quite a long way out. >> Cole: thank you, greg. well, that was the longest single question I've ever heard. [Laughter] council member spelman, did you -- [inaudible] >> mayor leffingwell: okay. Any other questions for mr. come naly? Mr. canaly? >> Mayor, council, I'll try to be brief. In your handouts you have four items. You have a copy of my presentation, a copy of the prioritized mobility proposal from the city manager's office, the response with a recommendation from citizens task force and then lastly a set of citizen comments that we've collected since our original draft prioritized proposal to council. As you know, council, you directed us to develop a multi-modal proposal on priorities, mobility priorities. You approved the prioritization process and what is news here is the citizens task force actually has made a recommendation to you based on the proposal on the prioritized mobility issues. Again, we followed a process of prioritization that was approved by this council but that is also consistent with the federal highway -- or transportation administration as well as hud and epa's newer policies on transportation that promote sustainable systems as we develop our transportation network here in austin. We also understood that there were a number of strategic principles that we tried to follow, a focus on near-term needs to try to obligate the funds or develop a proposal where if approved by this body and of course by the voters, that we could obligate those funds within the next two years. We also heard clearly that you desired us to design projects for the next series of funding opportunities. That's not necessarily assuming another bond, but the next series of opportunities, whether they be grants or funding through this council. Certainly immediate congestion issues were ones you asked us to look toward, as well as geographic balance. We conducted four community-wide meetings. Most of those were in conjunction with the comp. Plan. We also held a mobility forum here in city hall atrium where we had more than 140 participants, where we at the culmination of this process had collected over 3,500

suggestions and comments with regards to gaps and priorities that individual citizens saw within their community. The citizens task force, you also directed us to meet with on a regular basis. We held seven meetings to bring them along with the process, and that culminated in recommendation to council on the 12th of this month. As you may remember, we began with a preliminary proposal on mobility priorities that was based on an \$85 million sort of the low end of the range of what the budget office said we were doing in the direction you gave us. The citizen task force was can you increase the -- can you phase the boardwalk project specifically in your recommendation, expand partnerships with other agencies and so forth as you see there. We did make a final recommendation that took advantage of the full capacity within the direction that you-all provided us, they added 5 million to our original proposal on mobility priorities. It assumed that there would be no new tax increase in terms of the rate, as canaly mentioned within that half of the existing bond capacity, and he responded to your direction on multi-modalism looking to invest inroad ways, bicycle, pedestrian trails and transit. Added projects in terms of the recommendation from staff included investments in the i-35 corridor, which we'll be partnering with txdot hopefully on. Also investments in downtown streets. Arterial intersections, neighborhood intersections, pedestrian programs, and also a proposed matching fund with travis county so that we can begin to respond to some of the roads and other transportation elements on our boundaries of the city with travis county. [One moment, please, for ] >> that works around the community, many of our counter parks in our other agencies are elated at the amount of investment and the partnership that is going on. We hope to continue that effort as we look toward funding over the next -- in terms of construction through 2018, you will see that the city of austin, assuming that a future funding opportunity through this proposal is funded will be participating as part of the region in making a significant impact on the regional transportation network. Partnership opportunities, that is one of the questions that this body asked as well as assistant task force, we identify add number of opportunities as far as mobility partners agencies including txdot mobility authority as well as the trails foundation on the board work project. Post delivery phase, one other objective we received from this council is to try to preload opportunities for future funding opportunities. If you will remember when this region sought stimulus funding for many of our projects, we found ourselves without a number of projects on the shelf ready to go in terms of travel ready type projects. You notice we are proposing as part of the mobility priorities to move a number of projects forward through preliminary engineering and design phases and hold them for future funding opportunities so you will see about 77% of this proposal goes directly toward implementation, either destruction or design and construction together, whereas the other 15 plus 8% are to get projects ready for the next phase of investment opportunity. So with that, my last slide is just to remind you where we are on this march towards a decision by you all. We are making this presentation as briefly as we can here today. You will have an opportunity to be considered calling an election and choosing ballot language in the coming weeks. With that, if there are any questions. >> Thanks, rob. Any questions councilmembers? Thank you, sir. >> Thank you. >> All right. So jenny, you look like you are anxiously awaiting to take something up. Can we do something real quick? Which one? I am item 144, which is chapter 26, and my attorney has said I need to make sure it is also the authorization to execute a lease in parkland improvement agreement. >> Great. >> So item 144, too. >> Aisd approaches city of austin for a portion of what is known as kindemere pool and they will build and operate and maintain the parking lot but it will be the benefit of the park and aisd, therefore the agreement. There is no other feasible and prudent alternative to the taking of the dedicated parkland which includes all planning to minimize harm to the park. >> Thank you, jenny. There is no citizen signed up. Is there any citizen who wants to give public

testimony on this item, item 144? Questions councilmembers? I will entertain a motion for approval. Motion made by councilmember shade, seconded by councilmember riley, and close the public hearing. Any other discussion? All those in favor, say " >> aye. >> Opposed, mary do you want counted in that vote? Motion carries on a vote of 5-0 with councilmembers spelman -- there he is -- with councilmember -- only councilmember morrison off the ballot, 6-0. >> Last item, 42. Is that correct? >> I want to ask spencer to come up and give us a little breakdown, we went through too fast with that of what is going to happening with the deobligated bonds that we just acted on. >> Thank you very much. I appreciate your time. I will be very brief. Because we at testified to be so transparent with the community, we wanted to make sure everyone understood with the action of deobligation, that then freed up the million one to be redistributed across our project inventory list so when you approve the deobligation of the funds, that then freed up the money to be able for us, too, this year to fund sweeney circle project and the ivory project and willow project and there is roughly 200 something \$30,000 that gets distributed between the go repair -- I apologize. So we use that money to fund the three projects. Then that frees up money so that we have the million one that we can redistribute across the project list and so we -- it is our recommendation to put 700,000 into permanent support of housing which increases that from a million to a million 7 and then the difference we split between go repair and a rental home assistance, so we are the competitive buck for them to apply to was increase and the rehab coalition bucket was also increased. We want to make sure you understood that that was part of our presentation. do we need to reconsidering a previous motion? >> Only if someone wanted to, mayor, but I have no interest of that. you just wanted to bring it up -- >> we have come so far with everybody and we wanted to make sure nobody thought we slipped something in. We have been talking to deobligation to our stakeholders and we wanted to make sure we closed that loop and somehow that we didn't inform everybody of all of our actions. >> Mayor leffingwell: okay. Does everyone feel sufficiently clarified? I know I didn't. Okay. >> Thank you. >> Shade: Thank you. Have a nice night. thank you very much. Gurns guernsey, are we back in your territory again? >> Back to zoning? >> Zoning territory. >> Item 110, oh 168 known as uncle bob's 2222 at fm307fm2222, this is a zoning change request for limited offices or low district zoning to general commercial services or cs district zoning. Council on your first reading you approved wlo or limited office -- or warehouse limited office zoning with conditional overlay that prohibited exterminating services, i had a trip limitation of 2,000 trips per day and a dedication of 16 girl fees of right-of-way. We could only consider this item this evening for second reading. We do not have the dedication instrument in our possession at this time. I would like to just tell you a few things about the property just to acquaint you again with it. The property is about 4.9-acres in size. It is an existing convenience storage facility. The properties to the south and west are existing apartment complex with some conventional overlays to the north. Across 2222 is a 3m rmd facility and to the east is undeveloped land zone sf2, that is subject to the hill country roadway corridor standards. The petitioner to the south and west, the apartment complex does create a valid petition situation and it currently stands at just over 43%. The owner would like you to reconsider the cs zoning. He is, I understand, here today. Also there are individuals here in opposition to the request from cona, the neighborhood association out in that area, but the reason for the -- making sure that it was pulled -- you understood that this was a valid petition and that the owner still would like to consider the cs zoning and that's -- not the wlo zoning that was granted at first reading. At this time, I will pause and if you have any questions, there is an owner representative that is here and there is neighborhood representatives here as well. >> Well, since there is a valid petition, it will probably be best to, as we customarily do to not vote on this until we have a full council, so we could go ahead with the discussion, and we know that we do

have a full council around here somewhere. >> Mayor? >> Mayor leffingwell: yes. G I think he said it is for second reading and a third reading -- we have 7 over there. Look there. And I do have a question about the ballot petition. Is it against the cs or. >> The ballot petition is written, which is for the current zoning and would not protest the wlo, so we the undersigned affected property owners, they would be objecting to any other classification other than lo which is current zoning or wlo zoning which was recommended by staff, so it is opposed to the cs zoning but if you chose to consider and adopt the wlo on second reading or eventually third reading, there would be no valid petition that would prohibit that. >> We did have a public hearing about this, first time around? >> We did. We did. >> Is there anything new necessarily that has come to light? >> Well, I just wanted to bring to mind you of that. The owner still would like you to consider the cs zoning. It has been posted in a manner in which you could still consider cs zoning since that was the original request. >> Okay. So what -- what is the reason -- what is the reason it should only be considered for second read something. >> We thought we might actually have the dedication instrument earlier today. We understand that it is actually in transit. It has not arrived. So I need to make sure that you understood that it would only be for second reading at this time. and that would be for the wloco. >> The wloco but you are also posted to consider cs, either one or you can consider something less restrictive. Council. >> Councilmember morrison. >> I would like to motion the second reading the wlo that we did, in the same category that we had for the first readings. >> Mayor leffingwell: Councilmember morrison moves to move the wloco on the second reading. Is there a second? Councilmember by councilmember shade. Discussion? All those in favor, say "aye."? Aye. Opposed say no. Passes on a vote of 6-0. Councilmembers spelman off the dais. >> Thank you mayor and councilmember that brings us to item 116 and 117. These are two different properties that are nearby each other but owned by different property owners. Item number 116 i kc1401000444 on western trails boulevard for the 2301, 2303 and 2305, the zoning change request is from sf3 to nomu. The property is about 8/10 of an acre. The zoning and planning recommendation, after reconsideration of this item was to deny the staff recommendation which was for nomuco with a triple limitation of 2,000 trips. The property is currently developed with duplexes, single family uses to the south and west of this property. With sf3 zoning and to the north is lo and office zoning. The planning commission -- or the zoning and planning commission, when they made this recommendation, they had a concern primarily about parking on the properties, given the size of the lot. As I said before, these are developed with three existing duplex lots. I think I will pause right there. If you have any questions, the owner's representative, mr. harris is here. I don't believe there is anyone in opposition to this request that is signed in, but this was an item that was not recommended by the zoning and planning commission. >> Move staff recommendation. do we have any presentation? >> Well, the applicant's harris, if you would like to hear from him. I don't know if he would oppose. >> Mayor leffingwell: harris, you are shaking your head. >> I will reserve my time for rebuttal if any is necessary. no one signed up against. Councilmember spelman, do you want to repeat your motion? >> Spelman: Yes, mayor, i move to close public hearing and approval of the staff recommendation. on all three readings? Councilmember spelman moves to close the public hearing and approve staff recommendation on all three readings. >> Mayor. >> Mayor leffingwell: Councilmember riley. >> Riley: Before we vote on that, I would like to ask harris a question, if we could. harris, as you know, i have raised the possibility of whether the parking on this site could be done with pervious pavers, the area in here would be a softer, greener surface. Do the property owners have a problem with that? >> No, they are in complete agreement that the parking would be done with pervious pavers consistent with the city of austin's environmental criteria manual. >> Thanks very much. >> Thank you. >> And mayor, if I



could, i would like to offer if i could a friendly amendment to the motion -- I visited this area last weekend and i applaud the neighborhood for embracing this concept. They are basically taking a residential neighborhood and allowing other uses on the edge of the neighborhood, where there are other uses across the street and i think that's -- I am glad to know -- glad to see that kind of flexibility and i hope we can create destination there is that would -- one could in some way could be neighborhood amenities so people could walk to those. The one concern I have is the effect of going commercial there will be that the green lawns on those houses, on the edge of that residential neighborhood will now be filled with cement or -- for parking. It will be right over those lawns and I don't think that is very consistent with the character of the whole neighborhood and I think there is a -- a solution that could work there and that is using pervious pavers which are in an experimental stage, we haven't been using them because there are some doubts about their efficacy. I think we could, in this case, we could make clear that the it won't be given credit off of the pervious cover, I don't think impervious cover have an issue here and so really, the main difference will be -- well, I think there may well be environmental benefits, and especially in the long term where we get more comfortable with using impervious pavers there will be environmental if we get it right but in the meantime for at least aesthetic reasons, to maintain pleasant character to that residential neighborhood, i think it would be helpful to be required to be impervious, so I would offer that as friendly amendment and we talked with development review staff about this and so they -- and we could require it -- the design of the pervious pavers could direct that the owners use the method listed and the city of austin 7t which relates to the pavement for pedestrian use and I think that would be a good solution here.

>> I will enter an agreement. >> The friendly agreement is acceptable but do we need to change it to first reading only? >> That's correct. And we will bring it to the appropriate instrument that may be in the form of a covenant or an ordinance and we will work with the law department to make sure it is appropriate and bring it back for a second reading. >> Mayor leffingwell: Second will be on -- it will be on first reading only. All those in favor, say " aye. Opposed say no. Passes on a vote of 6-0. Councilmember cole off the dias.

>> Thank you mayor councilmember, i 117k140093, this is for the properties that are just a little bit to the east of the one that you just decided on first reading at 2203 and 2205 western trails. These properties are a little bit smaller in size. They are about .4-acres. There are two existing duplexes. The uses in the area are are similar to the south and to the east are single family. To the authority is lo, an office and to the west is sf3 and single family and duplexes already existing. The zoning and planning commission's recommendation was to deny staff recommendation of nomu district staffing, staff did recommend nomu standing and we didn't have the overlay because the property is small enough that it wouldn't generate enough trips to break the 2,000 trip threshold so with that I will pause. harris is also the agent for this case and he's present, if you would like to hear from him for this other case, which is about one lot away from the other three lots. >> Mayor leffingwell: harris, do you have anything to say? >> For the record, no. for the record, no. Okay. There is no one signed up in opposition, so would you like a rebuttal? [Laughter] >> no. Thank you, mayor and council. all right. Entertain a motion on item 117. Councilmember riley. >> Riley: Mayor, I move we treat this item the exactly the same way we treated previous item, that we approve staff recommendation with the -- with the modification that we require pervious pavers in accordance with the environmental x-ray tear i don't know menu. >> Mayor leffingwell: Motion by councilmember riley close public hearing, the same as before, to accept staff recommendation except for the inclusion of pervious pavers, second by councilmember spelman. Discussion? All those in favor, say " aye. Opposed by no. Passes vote of 6-0. Councilmember cole off the dias. >> Thank you. This time I will introduce virginia collier from air office in charge of annexation division and will present 148 and 149, the

next two items. >> Good evening, mayor and council. This is the first of two public hearings for the following two annexation areas, 148 and 149 which are proposed for consensual annexation for whisper valley and indian hills agreement which was approved by council last june, 2009. The second hearing for each of these items will be next thursday, august 5, here at 4:00 o'clock. Council will not be taking action at either of the hearings, meetings tentatively scheduled august 6. 148 is indian hills area, 234-acres located in travis county west of highway 130 and east of 973 at intersection of 973 and becker lake road. This is in the etj and adjacent to the full purpose jurisdiction on the north and west side. This area is currently in developed in future proposed development includes mixed use project including residential and commercial land uses. Annexation for limited purposes of limbs zoning would occur on which would occur regarding development, construction, land use and environmental quality to the area as subscribed in the planning study and regulatory plan, copies of which are available on the shelf by the front door today. In areas after annexed limited purposes, the city does not provide property tax and municipal services, for example public safety and road maintenance will continue to be provided by travis county. As the area develops, residents will be able to vote in city council and charter elections and the property owners have waived the requirement that the area convert to full purpose in three years and instead future for purpose annexation will occur in 01 of the development agreement. This concludes my staff recommendation for item 148. >> Mayor leffingwell: Questions of staff. We do have one person signed up to speak. John williams signed up neutral. And before you start, john, i know we had a second on item 116 who is it? Councilmember morrison. >> Thank you. okay, john. mayor, would you like indian hills only now or wait and have the staff presentation on whisper valley as well, and remarks go to both developments. you may speak to both at the same time. I don't want you to have to repeat yourself. >> Yes, I just wanted to wonder would you like to have her presentation about whisper valley first. we can consider both items at the same time. Can we do that? We will do it separately. But you can phrase your remarks so they will apply to the next case. >> I have distributed to you another copy of the e-mail which our neighborhood association sent to you two days ago. I am here representing the park hills neighborhood association whose territory includes both the indian hills and the whisper valley developments. You are probably sick and tired of seeing me talk to you about transportation, but I do want to remind you that when I talked with you a year ago when you were considering the development agreement, the neighborhood association expressed its support for the development agreement with the understanding that the city would assure that the development approval process provides for adequate roadway improvements to handle the increased traffic. Our position now is the same as it was then. We want you to require that there be adequate transportation infrastructure. You are talking about annexing more than 2,000-acres of land. Limited purpose annexation. The roadways leading to and from whisper valley are entirely two-lane roadways with no shoulders. The only direct connection to sh130 is from indian hills, which is a connection to a one-way, one lane frontage road and all traffic that goes to 130 from indian hills will have to go through the 969 intersection, regardless of which way the traffic wants to go on 130. The development -- the agreements include nice amenities and roadway infrastructure being built within each of these developments, but there is no provision, yet, for any arteriale roadway going from either to or from the roadway and you need to think about that and need to think about the other stakeholders -- you heard with the bond issue, some cooperation that now seems to be occurring between the county and the city staff, i would ask you to require that there be that continued cooperation and that some agreement be in place to assure adequate arteriale transportation as well as interior transportation. Thank you. >> Thank you, I believe those are county roads. >> That is the only speaker we have signed up for

item 148. I I will entertain a motion to close the public hearing. Pro tem moves to close the public hearing. Second by -- I will second that. All those in favor, say " aye. Oppose say no. Passes on a vote of 5-0 with councilmember shade and cole off the dias. Item 148. >> This is whisper valley area which is larger of the 2 includes 2,066-acres located in travis county east of fm973, approximately 782 feet north of the intersection of fm969 and tail lane in the city's zone -- tailor zone, it is etj, and this area is currently undeveloped and futured include mixed use project including residential and commercial land use, again annexation for limited purr of planning and zone would result in higher quality than otherwise through the full range of city regulatory including development,ing construction, land use and environmental quality to the area as described in the planning study and regulatory plans, copies of which are available today. Again in areas annexed limited purposes, the city does not assess property tax or provide fuel money pal services and residents listen able to vote in county and charter elections. It will occur in accordance with the development agreement and this concludes my staff recommendation for item 149. >> Mayor leffingwell:

We want you to require that there be adequate transportation infrastructure.

You are talking about annexing more than 2,000-acres of land.

Limited purpose annexation.

The roadways leading to and from whisper valley are entirely two-lane roadways with no shoulders.

The only direct connection to sh130 is from indian hills, which is a connection to a one-way, one lane frontage road and all traffic that goes to 130 from indian hills will have to go through the 969 intersection, regardless of which way the traffic wants to go on 130.

The development -- the agreements include nice amenities and roadway infrastructure being built within each of these developments, but there is no provision, yet, for any are arteriele roadway going from either to or from the roadway and you need to think about that and need to think about the other stakeholderrers -- you heard with the bond issue, some cooperation that now seems to be occurring between the county and the city staff, i would ask you to require that there be that continued cooperation and that some agreement be in place to assure adequate arteriele transportation as well as interior transportation.

[00:02:00]

Thank you.

>> Thank you, I believe those are county roads.

>> That is the only speaker we have signed up for item 148.

I I will entertain a motion to close the public hearing.

Pro tem moves to close the public hearing.

Second by -- I will second that.

All those in favor, say "

aye.

Oppose say no.

Passes on a vote of 5-0 with councilmember shade and cole off the dias.

Item 148.

>> This is whisper valley area which is larger of the 2 includes 2,066-acres located in travis county east of fm973, approximately 782 feet north of the intersection of fm969 and tail lane in the city's zone -- tailor zone, it is etj, and this area is currently undeveloped and futued include mixed use project including residential and commercial land use, again annexation for limited purr of planning and zone would result in higher quality than otherwise through the full range of city regulatory including development,ing construction, land use and environmental quality to the area as described in the planning study and regulatory plans, copies of which are available today.

Again in areas annexed limited purposes, the city does not assess property tax or provide fuel money pal services and residents listen able to vote in county and charter elections.

It will occur in accordance with the development agreement and this concludes my staff recommendation for item 149.

>> Mayor leffingwell: Recommendations from staff.

Councilmember morrison.

>> I wonder if staff can

[00:04:01]

speak briefly about the transportation issues and i don't know if it would be you, virginia, about how we might be somewhat constrained but how we intend to approach that that were raised by councilmembers.

>> Good evening mary, I am with the planning department and review and we will have a more complete presentation on this next week in your agenda in conjunction with the zoning cases and [indiscernible] improvement district but we are working closely with the county.

We have a meeting, in fact, tomorrow to discuss the language to incorporate into the covenants, to try to address the mechanisms for obtaining additional funding from other -- this and other developments in the

area to make some of the regional improvements to the existing network that are called for in the long range plan but are not yet funded.

Other questions I can answer?

Thank you.

>> Mayor leffingwell: williams was signed up but he's already spoken on item 149.

So those are all the speakers that we have.

Entertain a motion, close the public hearing.

Move by councilmember morrison.

Second by the pro tem.

All those in favor, say "

aye.

Oppose say no.

Passes on a vote of 5-0 councilmember shade and councilmember cole off the dias.

That brings us to item 150.

>> Item 150 you postponed earlier.

>> Mayor leffingwell: 150.

>> It takes us to 151.

>> Mayor leffingwell: 151.

>> 151 Conduct a public hearing and consider a resolution regarding a request by the great gatti's located at 3720 far west boulevard suite 101 for a waiver of section 494a of the austin city code that

[00:06:00]

requires a minimum distance between 300 feet between businesses that sell alcoholic beverages and a school and the school is a middle school.

It's right across the street, right at heart lane and so they are -- they fall into that requirement.

These are some of the views gatti's to the subject -- to the school property across the street.

Our land development code has waiver provisions that they can consider a waiver of 300-foot distance if it is determined that enforcement in the particular instrument has those six criteria, , however, there is also a provision that the city council may consider written consent, which we have already received from the school, located within 300 feet of the the applicant's proposed place of business as sufficient justification for such waiver.

So with that support of the school, we would recommend approval of this request for the alcoholic beverage waiver.

There is a representative here this evening to speak gatti's if you would like some additional information about this.

>> Mayor leffingwell: okay.

I have no one signed up to speak except kyle gill.

>> Yes.

>> Who is available for questions if there are any.

Otherwise consider motion to close the public hearing and approve the resolution regarding the request.

>> Move.

moved by councilmember spelman.

Second by pro tem.

Any discussion?

All those in favor, say "aye." aye.

Opposed?

[00:08:00]

Passes on a vote of still 5-0.

Councilmember shade and councilmember cole off the dias.

>> Thank you, mayor and council, I think that brings us to item 152 to conduct a public hearing and consider appeal by mittty clay of a decision of a building and fire code board of appeals denial of standing and to decline to review the staff issuance of a building permit at 4605 avenue b.

>> Mayor leffingwell: okay.

Before we begin the hearing.

Are there any requests for postponement or issues of standing that anyone would like to raise?

Mr. Lloyd?

>> Brent Lloyd, city of law department and the board's decision that is before you tonight dismissed the appeal based on standing requirements and I want to just briefly, for the council's understanding summarize the board's decision.

There are essentially two issues of standing in this case.

And we conclude that the board correctly interpreted the requirements and found there was no standing.

The first issue is the interested party requirements if for land use appeals under title 25.

Those requirements south texas mandates that, in order to qualify as interested party, the person has to submit application fairly early in the process, the comments and in this case they did not submit comment on the application after the permit had been approved and for that reason, it does not appear on the record that the interested party requirements were satisfied.

The second standing issue is

[00:10:02]

the fact this case is fundamentally about zoning issues.

About requirements of the hyde park neighborhood conservation combining district and under the local government code zoning issues in the form of variance requests for appeals of interpretations should go to the board of adjustments.

Under our city code, it's set up so the board of adjustments can only consider certain zoning requirements, consider basic district regulations and regulations but our provisions are in such a way that there are recent zoning enactments, mccccd's and others which the board of adjustment does not have the authority to consider.

However, there is the appropriate body to hear those issues and zoning issues as far as variance and interpretations are not properly before the body and so for those two reasons, the board -- the building fire code board of appeals correctly found in this case there was not standing.

I have nothing further and i am happy to answer any questions regarding the standing issue.

this council now has to determine standing, which, I assume, is discretionary on the part of the council?

>> The council certainly has discretion to make whatever decision it believes is the correct one, yes.

And if you find that there is standing, you can go on and consider the merits of the case and you can take whatever action the board of building and fire code board of appeals could have taken.

You affirm the permit, reverse the permit or modify it.

it would be appropriate to hear from the party who is making the appeal with regard to the standing issue.

[00:12:02]

Let's hear from them.

mayor and members of the city council.

I ask that you waive the interested party part of standing, because I meet the other two required elements for standing and I argue that the interested party requirement is unreasonable, particularly in this case.

The house was empty since the winter of 2009.

Neighbors were unaware that anything was going on there and, therefore, we didn't even know a permit had been filed and if we didn't know a permit had been filed, we couldn't have been -- respond to the permit, even if I had gone on amanda and discovered that a permit had been filed, it was not adequate information on amanda for us to provide any kind of comment on the plan.

We had to actually request that the plans be posted.

So I argue that this is an unreasonable requirement and that you all -- I ask that you waive it in this case.

>> Mayor leffingwell: Comments or questions?

Council, this is going to require a vote.

Do we -- does anyone want to make a motion with regard to standing?

>> Yes, I would.



>> Mayor leffingwell: Councilmember morrison.

>> There are a couple of issues here.

One is that we have a building permit process that fundamentally does not allow someone to exercise.

>> We have the right to appeal and we can appeal.

>> That is fine, so I think that that is very compelling to me, that we should waive any requirements that would dictate otherwise.

And in addition, we have the strange situation that our board of adjustments can't

[00:14:02]

hear mccd appeals of interpretation and or variances and I intend to bring a resolution next week to try to correct that, but for both of those reasons, i move that we waive the standing requirements and consider the merits of the case.

>> Mayor leffingwell: Councilmember morrison moves we grant standing to the appellant and councilmember spelman seconds the motion.

Is there any discussion?

All those in favor, say "aye."?

Aye.

Oppose say no.

Passes on a vote of 6-0 with councilmember cole off the dias so we can go ahead with the hearing.

The first item will be a report from city staff.

>> Thank you, mayor, council my name is greg guernsey with the planning development and review department.

This is to conduct a public hearing and consider appeal clay for a decision of a building were building and fire codes boards denied standing but also, in this case, it was the staff's issuance of a building permit at 4605 avenue b.

If property is located in the north hyde park mccd and is subject to the mcmansion regulations, zoning recommendations and the zoning requirements, the building is a duplex structure with two drivers and blank the building on each side and come forward to avenue b.

The property did submit a building permit application on May 10 of this year.

It was issued May 19th, and the interested party status came in on May 26.

[00:16:06]

>> I will let the appellant in this case address those particular items and the owner is also here to probably address some questions that may relate to the building itself, regarding the property, the building coverage is approximately 23,000 -- excuse me, 2,347 square feet is the total building coverage.

Total impervious cover on the lot is 2,998 square feet.

Project is about 1600 square feet and unit B approximately 1500 square feet on the property.

It's just slightly under the McMansion limitation of the .4 FAR is .399 as far as the FAR is concerned.

The use is permitted in the district upon consideration of the request and the permit was issued.

It was brought to my attention.

There was a question about the application of the McMansion regulation and that was brought to me by the neighborhood on the basis of that, I have reviewed the claim that you were limited to a single 200 square foot addition being exempted under our McMansion regulation.

You could certainly have an additional 450 square feet that's separate and detached from the main building, and my staff, when we reviewed it and approved it, approved two 200 square exemptions -- basically two 200 carport on

[00:18:03]

the addition and I reviewed the actual minutes and the backup material that came before the board and the city council, reviewed letters that were actually submitted by the AIA advocating for that position but ultimately the city council did not take that position.

I reversed my staff position in that regard.

Stop work order still stands because I think there are some changes that need to be made, the plans set before I release the staff work order.

The appellant said they came forward in making their appeal certainly do not object to that.

The owner has agreed to make that modification to the plan, but I think there are probably two other issues that the applicant or the appellant bringing forward to you that deal with parking and driveway

location and what I think might do is let them certainly present their case and then you can ask me some questions and they can certainly rebut and then the owner may also want to add some information to that.

But if you have any questions now, I will be happy to go into that or we can just wait and ask questions -- as questions come up, I can pop up and answer them.

Thank you.

we will now hear from the mitty clay, and you are welcome to make a presentation, taking up to 10 minutes.

>> Thank you very much.

I have a poster that demonstrates the typical house driveway arrangement in hyde park, the typical arrangement in hyde park -- I should start over -- our primary concern here is that the design violates the

[00:20:08]

north hyde park mccd in putting parking in front of the house and a few years ago I was part of the economy that help write the hyde park mccd and when we scanned the neighborhood one thing we knew was the dominant side of the house was parking in the back.

There are duplexes on avenue b, this is the very end of avenue b around where this duplex will be constructed that follow these rules, there are also duplexes on after b that have parking all across the front and it is those duplexes that concerned us and those duplexes that inspired us to go -- to write the mccd in order to prevent further development of that sort.

Where we differ with staff here is that there is a provision in the north hyde park mccd part 6, 11b that states you can have two one-lane driveways if they are separated by the house.

So if you could move to item number 2, the reason that we have this part 6, 11b is there are a number -- there is three duplexes on duval street constructed in the 1930s on long lots and they have two driveways separated by the house.

The house is in the middle and the parking is in the back.

And when we were writing the mccd we were very into the process and had a developer come forward saying this is a president term in the neighborhood.

We want this exception written in, so we wrote in, two driveways separated by the house in order to allow this kind of development on

[00:22:00]

duval to go forward and if you put up item there for us, please.

I think it has something underneath it.

And so this is what we mean by two driveways separated by the house.

And this is clearly the intent of the mccd.

However, staff is interpreting this to mean -- that if you can draw a line from one driveway to the other driveway and it crosses a piece of the house, it is two driveways separated by the house and this clearly violates the intent of the mccd in regards to keeping the parking off the front of the house and so what we ask is that the site plan be redesigned -- well, the permit withdrawn and redesign so that we get the parking -- we get the cars off the front of the house.

It also violates other provisions of the mccd that is for pedestrian oriented uses, that is you have full access to front of the house, parking goes off to the side but I think this first element is clear.

Do you have any questions?

i have one.

>> Sure.

when you say that the staff's interpretation of that driveway arrangement violates the intent of the mccd, how do you know that?

>> Oh, yes, if you look at the hyde park neighborhood plan, which was published in 2000, it established the goal of maintaining the traditional character of the neighborhood and actually if you will look on number 5 -- please put number 5 up.

[00:24:00]

One of the first action items -- under action item number 1, if you will zoom in there was the goal of preventing developments from being constructed that result in dormitory-like structures with numerous cars, do not allow front yard parking.

The neighborhood plan enables the zoning and so if you have a question about the zoning, you should go back to the neighborhood plan, and the neighborhood plan and the neighborhood design guidelines that came out with that are very, very clear in establishing the traditional character of the neighborhood is parking on the side -- or driveway on the side and parking in the back, not in the front yard.

guernsey was willing to do that to discover the intent of the mcmansion ordinance and order that change and all we ask is they do the same due diligence in researching this so that we can get this cleared up.

the authors of these mccd provisions, are they still part of your neighborhood association?

So they would have recall of exactly what their intent was?

>> I could ask karen krow to come forward, she was that effort and I was on the committee, too.

she is signed up to speak, so ly if there are questions.

Okay.

mcgraw, there is a question.

>> Mayor councilmembers, karen mcgraw, I have been chairman of the hyde park planning organization now called the hyde park contact team since 1990.

Yes, I think one of the main reasons we even embarked upon the neighborhood planning process with the city and the mccd was development such as this

[00:26:00]

that had garages on the front and parking on the front because it only takes one of those developments to really mess up a lovely traditional block in hyde park.

So that was a very strong intent of the work that we did and it took a number of provisions in the mccd, taken together, establish that pattern, an we really have not had an issue with this since the adoption of the mccd in 2002 until this case, I believe, where someone looked at this particular exception for two driveways because, in general, it would be limited to one, and looked at this and someone with the city said, well, we think this will be okay without referencing the neighborhood plan in the neighborhood design standards to understand that this was clearly not the intent, so we think that this one exception that came in, because of someone noticing that pattern in the neighborhood, was very clearly intended to be two driveways separated by the house -- the whole house and not a bit of the house.

do you have that personal recollection?

>> Yes.

thank you.

>> Thank you very much.

you completed your presentation.

>> Unless you have any other questions.

well, you will have an opportunity for rebuttal.

First we want to hear from the presentation by the respondent, and I don't have the name of the respondent.

I have the name of two persons who are signed up against the appeal, john kutner and or a rrburger -- -- marburger.

[00:28:10]

Are you the respondent?

Yes, I am the owner of 4605 avenue b, john kutner.

>> You have 10 minutes.

>> I will be brief.

I did not come to talk about the details.

I understood staff was going to go that.

I am asking you to stop the bleeding on this project.

If you will show the first slide, please.

>> On march 29 I purchased this property which was a fannie mae foreclosure that nobody purchased on the course steps and it was unpermitted demolition and new construction that did not go through steve's office for historic demolition, it was in early -- [indiscernible] that was in this form when i purchased it.

I purchased the property on march 29th.

Prior to purchasing the property, starting first week of february i approached city staff because I am model customer for the second floor residential design i approached dane king and [indiscernible] who were good employees of residential we sign and had self meetings on what was personalled on this property.

Wanted to build a duplex, they went through the mccd with them and their supervisor at the ended two meetings.

There were several meetings back and forth and I was given basically a blueprint for the design I eventually created and did the architect and presented for permitting later in may.

But before I purchased the property from february until march I was told come back several times, this is what you are hall howed to build, this is the design, fine.

I also approached steve's office to determine if I was going to be hall howed to

[00:30:00]

demolish this structure here.

I told it was historic center and told to do research and told prior to purchase, again, I would be allowed to demolish the structure.

Purchased the property on march 29.

Given demolition permit on april 15 and on may 19 the building permit was approved.

Another issue standing something addressed, the hyde park neighborhood association was notified on march 17 I was purchasing the property and demolishing the property because I inadvertently e-mailed david conner behind me who is the president of the neighborhood hyde park association so the knowledge was there that I was acting in the area.

As far as issuing -- the issue of separating the house, if you can show the second slide, please.

The property in yellow, the 4600 block of avenue b is highlighted in blue.

The property I own is highlighted in yellow.

There are only two owner occupant properties on this block, this is the block above the [indiscernible] fields, a lot of light and noise and student rentals, the two oh occupants are two bottom right properties and clay lives on the next block down which is highlighted in black.

I have not received complaints from the property to the left -- to the west.

That property is a triplex.

It is a house with a garage apartment behind it and a duplex all on the same property.

The property due north of my property has not filed a complaint.

That is a duplex followed by [indiscernible] in duplexes.

Just to the north of that, two three bedroom duplexes and adjacent to the fields are two four bedroom units rented as two four bedroom units.

So my point is that I have done everything, dotting my l's and crossing my t's to

[00:32:00]

obtain a building permit.

The building demolished ready to pour foundation, it is framed up and end of may I am issued stop order from the city not from what i have done because I have done everything for the city but being stopped but because there is a process.

I have lost two leases for one year renting the duplex out of two groups of three people that was supposed to start on august 20.

I I can't meet that deadline so I can't continue that work so I suffered financially and I can't see how I have done anything wrong in this process.

I have not come to the city and tried to game the system.

I have not come to the city, here is my plan, prove it.

I haven't come to my city, what am I allowed to do, i would like to buy this property, will I be allowed to demolish and build it, help me design it and I do everything I was told I was supposed to do, there are issues or separated by the house, I will be happy to address that.

I will be happy to tell that, I brought chopsticks because the definition of separate is to keep apart or set apart and if you'd like I will answer those questions but my final point is that I think it is patently unfair to expect a property purchaser or owner to be -- there there to be lack of clarity in mccd that leads to substantial financial loss by a property owner when they are following every single rule they are asked to follow by the city and staff's position has always been throughout this process that this project is in full compliance with the mccd because they are the ones old me how to comply.

Thank you.

>> One speaker signed up against the appeal is noah marberger.

[00:34:00]

>> They are a bank office at prosperity bank who had to commission a loan and had to leave several hours ago.

If I may, his concern was in a bank knows that it can risk shareholder funds and issue a bank loan on a property that is properly [indiscernible] I am afraid he will have to speak for himself.

So now there are no more speakers for or against the appeal, so we will go back to the appellant and you have three minutes for rebuttal.

>> I have several comments i would like to make in response.



The first is that you all have received e-mails from neighbors that other neighbors in the block, single family homes, there is three of them, not two.

There are three, that are are owner occupied.

They object to this development.

They have sent you all e-mails, either in -- prior to this hearing or the one we appeared earlier in june at a public comment period.

Some of them are out of the country so they could not be here today.

The other is that none of the other duplexes at that end of avenue b have parking in the front.

They are all either grandfathered in or in compliance.

The third comment is that we kutner on a couple of occasions to come to design review committee, to look at his plans and to talk with them about them and he would not appear.

So while I -- I am sorry that he is losing money on this project, I also ask you to consider that we neighbors have invested heavily in our homes, and we don't want a developments that essential a parking lot and a front yard that is going to lower our property value, so while I am sorry he has lot a little bit of money, I hope we can start over in this process and get it done properly so that it

[00:36:02]

isn't in violation of the mccd.

And I can't speak for the staff and [indiscernible] thank you.

Council.

Councilmember shade.

>> Shade: Can I ask you to respond to the question that she just -- what she just raised about appearing?

Yeah.

Thanks.

>> Mayor leffingwell: john.

>> Shade: Sorry, john, i couldn't remember your first name.

>> May I ask --

>> she said you didn't appear at the -- to -- at the meeting.

>> The final week of may i was notified by the city that there were complaints by karen mcgraw, several complaints, and the complaints were three stories tall, it is over the far, it is greater than 30 feet, doesn't comply with this, doesn't comply with that.

The issue that stuck with are you allowed to have two driveways separated by the house.

On june 8, david connor telephoned me and told me that they would -- that the hyde park neighborhood association would never allow the construction of this project and that i would be sued, to stop it.

So when I receive an e-mail subsequent from david connor two or three weeks later saying we welcome you to come in front of the committee, I responded and i said david, as I am sure you can understand -- and I had lunch with david connor two years ago, I believe I had been targeted, not because there is parking in front, because you are allowed to park one car or two cars in front, and that's what I am doing but because I obtained a demolition permit on a property a few blocks away a few years ago and had acceptance to do that and i

[00:38:01]

said I am sure you understand after being threatened with a lawsuit by you I am going to politely decline your officer because it was an invitation into a hornet's nest.

I reached out to karen mcdraw at the end of may when I learned there was opposition to this permitted plan and had a conversation with her on the saturday after they first complained and it lasted an hour or so I would say.

A long story short, we agreed to disagree because there arish issues of what is the determine -- when you have a 55-foot wide lot which I have, you are allowed two driveways if they are separated by the house.

Karen's position is, separated means go all the way to the back.

Staff from the beginning said separated means exactly what it is in the dictionary, a part or keep a part, so I am actually under stricter rules currently by guernsey because his definition of separated now implies that you must be separated -- actually more obstructed by line of sight so the driveways have to have some piece of the building in between rather than be set apart by the fact that they terminate into two carports and i guernsey has a better drawing of the front of the house.

You are driving into two carports, not in front of the house with a bunch of parking in front.

So without rambling longer.

>> Shade: I appreciate that.

Thank you.

I was trying to get a flavor of what was going on.

>> I am absolutely in full compliance with the mccd.

Absolutely full compliance.

If it is the neighborhood's intent that separated means run alongside the house all the way to the end and terminate at the end of the garage, please write it.

Don't make me buy a property, go through the process and suffer financially because of the lack of clarity on part of mccd and in addition, if you show the slide there, the flint is there is too much

[00:40:00]

parking on the front of the house, the mccd allows -- this is the street right here.

The parking is all along the street because there are no outlets.

Everyone either parks in their driveway or on this the walk so I am not devaluing anyone's property.

I am increasing the value by demolishing a blight on the block and my design is such that my hope is there will be no cars on the street like this.

There is a bus stop less than a block away, so I am allowed to build a duplex, following mccd.

Staff says I am following mccd and I have six figures invested in something that is completely stopped at the moment and I am asking you to please end so I will make the changes that guernsey is requesting of me because they are slight, but please allowed me to finish this project and get this financial burden off of my back.

>> Shade: Yes.

>> Our neighborhood connor president, first invited cutner to come to design review committee in march or april -- when did you send the e-mail -- his respond to cutner was then please bring your plans to the design review committee.

He worked in our neighborhood and he knew we had a design review committee.

This was not the first time he was invited to that.

I do think it is important that it is corrected.

We have tried to reach out to him and it is true.

Everyone parks on the street because they don't want to park in their driveways, it is not a matter of design.

They are not designed to park in the front yard and they are not in the yard.

They are on the street.

>> Mayor leffingwell: Councilmember riley.

>> Riley: Yes, I have a question for staff.

[00:42:00]

Greg, can you explain to me staff's interpretation of separated by the house?

>> Yes.

This is a copy of the approved plan and the house and duplex structure is in yellow.

The duplex structure is in yellow and the portion of the building, as i mentioned, there is a carport structure that is here and there was a carport structure in here and it is my understanding von is understanding john isgoing to remove carport structure here which i stated is in violation of the mcmansion regulation because you can only have 200 square feet exempted under the mcmansion regulations towards that amount.

And I would like to just touch on three things that probably lead also up to this.

One, there is a question about, can you park in the front yard, and I don't have the luxury of dealing with intent -- although I greatly appreciate the design guidelines, but there is a section that deals with parking in the front yard, and that section is part of the hyde park mccd and there is a provision that allows for a required or excess parking space may not be located in the street yard, street yard could be a front yard in this case, comment at 25% of the width of the front yard or maximum of 20 feet may not be used for not more than 2 required parking spaces.

This property isn't wide enough, I believe -- I think

[00:44:00]

you would have to have at least 80 feet wide lot to maybe get the two parking spaces.

This property isn't wide enough for that but they could have one parking space in the required front yard.

It is very clear, also, in the hyde park neighborhood plans that adopted that no required parking is allowed in the front yard by the plan, by by the ordinance that was approved an enacted under zoning, you could have up to 2, in this case, you could only have one.

There is also a question about the number of curb cuts that came up.

And it is clear, under 11b, for duplex use or single family attached use, which this would be a duplex use, at least 50 feet wide, which is this, may have up to 2 driveways that are a maximum of 10 feet wide if they are separated by the house.

So that's where we get to the two driveways and then we get to the question of what it is meant by separated by the house.

So karen, karen and I have had a couple of discussions and she encouraged me to go back and look at the hyde park design guidelines in particular, and these are the design guidelines -- design guidelines -- hyde park neighborhood design guidelines and in particular I went back basically through the whole document again.

It is very good talking about single family.

It is very good talking about two-family residential which is attached -- detached garage apartment, but it pretty much is silent on duplexes itself throughout the guidelines.

And karen can certainly come up and maybe speak to that a little bit.

[One moment, please, for change in captioners]

[00:46:37]

blank nothing that stops something from being behind it either.

So that gets to that the entire house doesn't necessarily have to be in between, that a portion of it, and then you get to the question of how much is the house?

Is it 5%?

Is it 50%?

Is it 100%?

So when you go back to the plan that was presented to my staff and you start addressing the issue of house, just as a duplex or a single-family attached, which is two residences under a roof that might share a single wall, that's when we get to this issue.

And in this particular case the red being the driveways, the parking areas that we're talking about, there is a portion of the house that sits in between those two areas.

And so that's where my staff came down and I'm in agreement on.

There was a discussion I had with some of the neighbors about curb cuts versus driveways, but then it got -- if you took it to the maximum discussion about that, then could you have -- could you have two curb cuts and only one driveway and that kind of left me in the dirt.

So the section that really i think speaks to having the right of having two driveways I think still exists.

[00:48:00]

It's very clear that if it's a duplex or it's a single-family attached use and the lot is 50 feet wide, I think you can clearly have two driveways if they don't exceed a certain width, and the number of curb cuts i think in this context, they spoke to curb cuts, curb cuts, and then they get down to driveways, I think curb cuts and driveways go hand in hand, and so that's where staff landed on that.

And that's how I believe that my staff -- I believe that the nccd was complied with.

It may not be the entire house.

I think it is a portion of the house that is between the two driveways, and that requirement is satisfied.

But the permit is still on hold until we receive the changes that at a minimum remove the carport structure and then bring us back to the point where the house breaks the plane between the two driveways, and i understand that john will do that at some point.

He hasn't done that yet but I think he's waiting for decision this evening.

I'm sorry -- council member shade.

you kind of trailed off at the end, so what you were just about to -- I think what you were saying was based on what happens here, he would -- if he follows the neighbors' interpretation what would he build?

Is that what you were trying --

>> no, what I'm saying is john won't give us an update to the plan that reflects the changes I've said need to be done before I can remove the hold on his permit.

Right now he's stopped removing partly because of the appeal that's been filed, but also because I've asked him to change the plan to be compliant with our code, because I don't believe it is right now.

And so he hasn't brought me back because I think he's

[00:50:00]

waiting to hear the outcome of this appeal before he does any more changes to the drawings to submit to the city at his cost.

>> Shade: okay.

And then my follow-up question would be what could he build on this lot if he did follow the neighbors' interpretation.

>> Well, I think, and John may have actually explain this, the interpretation of the driveway must be on the sides of the structure, he could not have anything over or behind the driveway.

He would basically have to put the driveway going straight back and then I guess he could park on the rear, but as I said before, I think he can still park at least one in the front yard and maybe the ones in the driveway and the side in tandem, but it would require him to remove the portions of the building on the sides right now, because the driveways don't -- would not be able to go physically all the way back.

There's nothing in our code that requires you, though, to put a driveway all the way back.

You could actually stop the driveway immediately adjacent to the house, which is kind of what he has done, and just put the rest of the house to the rear of the driveway.

council member Riley?

just to clarify on that drawing, are you saying that both of the driveways just come up to the edge of the house, or are you -- the one on the left is actually -- actually extends under.

>> Guernsey: right.

The driveway on this side would end at the house, and there was a carport here in this area, and that I said had to be removed, because it contributes -- it would be not considered exempted SPACE UNDER the McMansion regulation, and if it was counted towards the far, he would exceed the limits of the McMansion.

And so John has agreed to

[00:52:02]

remove that carport because then that adds square footage and to keep from doing that he'll take that away, and so the driveway and parking space -- drive parking space here, that would end at the house at this point, instead of continuing all the way down to this points.

Right now there's house on the plans that he's shown to this point.

I'm showing -- I'm showing the state that would need to be changed in order for me to release a permit, and that brings this driveway and parking area out the way up.

Others there would be a parking -- on the other side there would be a parking space here and then there's a carport structure behind, which is in rely on.

>> Which is in what?

Which is in yellow, this area here, there's a carport in this area, and then by doing that he'd have two spaces in tandem, one in front, one in back.

One space that would be in the front yard setback, the other being in a carport structure.

Ing.

>> Council member morrison?

this is a difficult situation, we've heard about things that have happened in the past and different ways of interacting and the challenges of engagement and the challenges you've had in your permitting process, but the question before us today has nothing to do with any of that.

The question before us today is whether or not this permit is in accordance with the nccd, and I think that looking at the language which some folks may think could be interpreted different ways, and looking at the development of the nccd and the specific goals that were trying to be achieved based on the

[00:54:00]

examples that have been very clear, and the bottom line was the regulations were being written to -- so that new development would mimic the pattern of no front yard parking, and I think that that speaks to the separated by the house and it speaks to the pedestrian-oriented uses in the front of the house.

So I would like to make a motion to find that the permit is not in accordance with the nccd.

In order to be in accordance with the ncc the two driveways would need to be entirely separated by the house and pedestrian oriented uses would need to be the entire front of the house.

So my motion is uphold the appeal and reverse the permit.



motion by council member morrison to close the public hearing, grant the appeal and reverse the permit.

Second by council member spelman.

Council member shade?

I'd like to ask another question to you, john, if you don't mind.

This may be one that you -- I'm just curious.

Since do you have to take this to the drawing board to deal with the changes that you have to make anyway, i mean, what do you think you would do if you were to follow the neighbors' interpretation?

>> Loose a lot of money after being directed by the city on what to build, and if I could have a moment of your time I would like to reread that section separated by the house, because I disagree with guernsey's interpretation of separated by the house.

My only option is to lose a lot of money, tear up the entire frame and the foundation and all the work that's been done.

You cannot build a duplex running parking all the way to the back, and this is not

[00:56:01]

the only property that has two parking -- but I'm asking, what could you build there.

>> If you're allowed to build a duplex, you're allowed to build a property that houses six people.

It's not marketable.

I wouldn't have bought the property if I had to build that on that lot.

I bought the property to build specifically this structure that was permitted by the city.

You don't have the impervious cover.

You have a 50-foot wide lot with a 10-foot drive protected all the way back.

Three trees all the way down, that are not allowed to be torn down.

You've got protected trees in the back and you would have to set parking in the back.

You'd burn up all your impervious coverage getting through any type of facility in the back and you'd be left with a 50-foot wide, 29 foot woot after your exterior walls are taken care of, duplex.

Nobody builds a 15-foot wide duplex.

It's not possible.

Soion I don't understand how the possible interpretation could be -- what I was imagining was I've seen a lot where there's a driveway on one side and it goes down, and then you have two -- and in that neighborhood I've seen that in my neighborhood.

You know, I live in a duplex like that, so that's why I'm asking, where the driveway is on one side and it goes down the side, and the two units -- and we've looked at other cases just like that if that's something that could be done on this property.

>> You can't get there with impervious coverage.

Not only that, but the property at the end of the street, which was built in 2006 after the nccd does not do that.

And it has two curb cuts and two driveways.

>> Mayor?

Follow up on that question.

council member riley.

I'm not following that.

Council member shade was asking about the shared driveway that runs down the side serving both units, and I guess I'm confused as to how one shared driveway would consume more impervious cover than two separate driveways.

>> The two units are side by

[00:58:01]

side.

>> Well, but that's a choice of design, side by side in some respects but there are many properties, as council member shade notes, that have one driveway serving two units that are side by side within the duplex.

>> I don't envision that being -- you're saying that you've seen a duplex with a driveway that goes along the side and then you've got a duplex where the parking terminates in one location over here.

>> Correct.

>> I don't know what's possible.

I know what I was told to do.

I know what's marketable.

This would not become a duplex if that's what your requirement is.

It would become a single structure.

You're allowed to put six people in, cut my losses, save as much money as I can, put something in there.

If I ended up going that route.

I don't understand, you know, -- I hear what you're saying, but if on the same block others don't comply, if on the same block 80% are nonowner-occupied, I've heard 70% -- the one person to whom they refer actually bought a property [inaudible] lives there now so it's not actually their homestead.

I'm sure that some architect could find a way to make something work and call it marketable, but that's not what -- that's not why I bought the property and that's not where I can go with this property.

On the right side of the property are two protected trees.

At the rear of the property on the left side are protected trees, a cluster of them.

I can't get there on this property.

So, briefly, the nccd states that if you have a property that is 50 feet wide, you're allowed two driveways if they are separated by the house, separated by definition, and there is none in the code but by definition means to set or keep apart.

I understand where you're leaning.

I'm going to make a point because this is my last gasp at saving -- at not incur major financial damage, but these are chop sticks that are together.

I have separated them.

Greg guernsey states that separated means that I must be in between them by line of sight.

I am not.

They are separated, and i keep them separated because they are set apart by me.

If these are my carports connected to the house, by definition with the house in between and the driveways leading to these carports, the driveways have been separated by the house.

so if I may, if they're separated by 6 inches that's still separated?

>> No, no, no.

Separated by line of sight obstruction is what guernsey is saying, okay?

That's not what I'm saying.

Merriam-webster's definition of separated means to set or keep apart.

Driveways that lead to two carports and houses in between, not 6 inches of the house -- so it would be distinguishing them from driveways that are on top of each other?

That would be the purpose of saying that?

>> Connected to ten foot wide driveways, I assume.

so what if there's 6 inches between them.

Are they separated then?

>> No, no, no, they are not separated by 6 inches.

What he is saying is that the two driveways -- the house is in between.

You pick a point of the driveway -- there's no car park.

Pick a point of the driveway where the next car is parked on the other side, draw a straight line and does the house intersect that line.

Does the house obstruct the driveways, okay?

That's his definition of separated after the issuance of the permit, after months of woking with staff and buying the property, whereas the merriam-webster's definition is to set apart or keep apart.

I don't have to be between them.

It just must be set or kept apart, by definition.

That's what I complied with.

And I'm not the one who came up with that definition.

That was the definition i was given by staff.

I don't understand how I'm at fault going through -- dotting all my I's, crossing all the t's, about to lose a significant amount of money because of this issue.

So -- I know you're exasperated but I'm frustrated.

You've had a long day.

Thank you for your time.

and this is really frustrating.

I understand how difficult it is, but I -- it sounds to me like there is a way to design this in fact, -- what I'm struggling with is I wouldn't -- if I was trying to establish a house that's in between two driveways -- I wouldn't -- i think from reading it, I -- I don't know how else i would have worded that.

Now I realize there are ways to make that even more clear, but I think that -- and especially knowing that there are other ways to design this, if the idea was to have a house in between two driveways, I feel like i understand -- I don't feel like that's the same thing as having a portion of the house where -- you know, that's dividing the two driveways.

It's just not what I -- and just from having driven around there and looked at it, I don't -- it is hard because I realize how challenging it is to develop, given all of the restrictions that exist in the hyde park neighborhood, but it's through a very long and arduous process, and as you said, you've developed other properties there so this is --

>> there needs to be clarity with the nccd.

Because the term is not in between, the term is separated.

And I'm not the one who came up with a definition.

Staff is.

So I've invested based on staff's guidance.

Never would have bought the property otherwise.

So my alternative is not to build a different type of duplex, because we studied this, and I worked with staff on many iterations, okay?

The only feasible option on this specific property is to do a six bedroom.

I don't want to do that, and demolish what is there, what I've already spent money on.

You're allowed to put six people in a property.

Right now the way it's designed all the cars probably get off the street, don't bother the street.

If you have to put up six bedrooms, put parking in the back, you're required to put, I think, three parking off street.

With six people living there that's parking on the street, means I've got a less valuable property.

>> It's not just the issue of parking on the street, though.

I think it's the -- -- the way that the house faces the street, as having two cars in front of the house, as if it was their yard, and that's different than being on the side of the house or being in front of the house on a street below a curb.

I mean, it is different, from a design perspective, which is the nccd.

Granted there may be --

>> if you get to the point of 47th and red river you see the same, 4705 caswell you see the same thing.

There's not even a house between the two carports -- the two garages.

If you go to the end of this block you see two driveways, knoll running along -- all the way down the side of the house, and if you go across the street you see duplex at the back of the property with a driveway leading to it where they park in front.

The issue is -- so -- i implore you to let this permit stand after months of work so that I do not incur a major financial loss at the insistence of staff and direction of staff, mayor, please.

any more questions?

We have a motion on the table.

Do you have a question?

>> Not a question.

do you have a motion to waive council rules and extend the meeting past 10:00?

>> Sure.

all right.

Motion by the mayor pro tem, second by council member morrison.

All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye.

Motion passes on a vote of 6-0.

Council member cole off the dais.

>> Thank you, mayor.

You know, when I listen to the case I think, you know, it certainly may have been the intent of the neighborhood to create what they're now saying more specifically, but it wasn't that specific in the nccd, and that's all that the property owner had to go by, and he went through the proper channels and the proper process, and got the permits and then went to a bank and got the loan, and now we're changing -- or at least someone's opinion is changing what they believe is now the intent of the nccd.

I think if -- you know -- and I'm all for the intent as it's being talked about.

I get, you know, the intent and why neighbors would want to protect the character of their neighborhood.

But let's fix this moving forward.

And as council member shade said, even with the parameters of the new intentions of the nccd something probably could be built in that neighborhood and comply with it, but in this case we've already approved this permit, and he's already moved, you know, this far down the road, and the project, when I look at it, it doesn't look like something egregious monstrosity and violation of neighborhood integrity.

It looks like a duplex with two driveways kind of in the front of it.

So I won't support the motion.

I think we should let this gentleman move forward with his property, and then if we NEED TO FIX NCCDs AND BE More specific so that staff upside downs exactly neighborhoods's intent and exactly council's intent, then let's do that, but let's not leave this hanging out there and not fix the real issue, and that is

specifically enumerating what we want as a community so that folks like this gentleman don't end up, you know, falling on their knees here and begging us to help them when he thought he was doing everything he was supposed to be doing and staff told him he was doing everything he was supposed to be doing.

I just think that there's some liability on our part, and if we need to fix it then let's do that but not harm this guy anymore.

So I won't support the motion.

I have one question.

Apparently there's a part of the nccd administration, there is a neighborhood committee on design and interpretation, all that -- on design and interpretation, all that stuff, and I thought I heard the statement that they invited you to come and discuss your design and you did not go and discuss your design.

Seems to me that that would be the purpose of having this committee, would be to clear up parts of the nccd that were not clear.

>> The reason I didn't -- on either side.

>> It's true that I was invited to the committee after I was threatened by with a lawsuit by david park the president of the hyde park association.

My response was I'm sure you understand why I'm declining your invitation but this was all after the permit was issued and after he called me and threatened me with a lawsuit.

It was obvious I was going into -- I would have gone into a committee that says there's no way we're going to allow you build this, because that's the [inaudible] conversation i received from [inaudible] council member morrison?

I think we went through this before.

If I could ask [inaudible] to come up.

Was there some clarification in terms of that interaction you wanted to provide?

>> It is my understanding he has been invited previous to that, but he also has developments in the neighborhood, he's worked in the neighborhood, and his other developments in the neighborhood comply.

So I mean, it's not like it's his first time in the neighborhood and he didn't -- but in any case he was -- and david, can you speak directly to that, just to the invitation?

>> Clarification.



John knows about the committee because he owns property on marina, he has a permit to build a duplex with one sidewalk, one driveway along the side.

So he's very familiar with the process.

What I told him was the nccd was a legal ordinance and that the neighborhood would have to try to uphold it in a court we would.

I did not threaten to sue him personally.

>> Morrison: okay.

Thank you.

any more comments?

Motion and second on the table.

Does everyone understand the motion?

All in favor say aye.

>> Aye.

>> Mayor leffingwell: aye.

Opposed say no.

I think I count that vote at 5-1 with -- in support of the motion with council member cole off the dais.

So the appeal was granted.

With instruction to reverse the permit.

And now city clerk, i believe we have covered all of our items on our agenda today, so without objection we are adjourned at 10:09.

**End of Council Session Closed Caption Log**