

## City Council Regular Meeting Transcript – 10/16/2014

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Walter e. Long request

[04:09:55]

>> Mayor Leffingwell: Good morning. I'm austin mayor lee leffingwell and we'll begin today with the invocation from mark heinrich, city of austin ctm. Please rise.

>> Good morning, mayor and city council. In this time of reflection prayer, I wanted to ask that we focus and put our energy in the thoughts that I have for you today. Today is national bosses day and I wanted to honor our bosses for the city of austin, the supervisors, the managers, the directors, everyone that's here and all our bosses of all our families in every one of our lives. Thank you. I want to give honor and -- [applause] where focus goes, energy flows. Last night I was watching "it's a wonderful life." George bailey prayed twice in that movie. First time he prayed he said I'm not a praying man, but he said lord, show me the way. By the end of the movie over \$8,000 he wanted to give up his life and we saw what it would have been like if george bailly wouldn't have been alive. Everyone in this room has a family and life that has a huge territory and I'm thankful for every life that's in this room and I want to honor each one of us and I want to thank god for putting us on this earth to share our lives together. This city was built on relationships and family and friends. And it says the end of the movie the angel said there's no failure as long as you have friends. And I haven't seen knew a long time, but it's always good to see your faces again. I thank you. Let us pray. I believe in better days and that's why I pray. In the name that is above all names, the king of kings and the lord of lords, the one who rose from the dead, we thank you for everyone gathered here now. Thank you for the promise that you have promised us, that where two or more are gathered you are there in the midst. Lord, we welcome you amongst us today and gather and celebrate the gift of life that you have lavished upon each of us. We thank you that you know each of us by name and have caused us to walk with you. We say that we are dependent on you and our trust is in you completely. As we surrender our lives in adoration, we ask that you come by holy spirit and come fill our lives with your love, fill our conversations with your grace and truth, fill this meeting with your presence. We ask that you open our ears so that we may hear your voice. Open our minds that we may receive your eternal wisdom. Open our spirits that we may know you and know you are leading us and have guidance in our lives. And open our hearts so that we may receive your wonderful love. We ask all this in your glorious name, amen.

[04:13:10]

>> Mayor Leffingwell: Amen. Please be seated. A quorum is present so I'll call this meeting of the austin city council to order on thursday, october 16, 2014. The time is 12 minutes after 10:00. We're meeting in the travis county administration building, 700 lavaca seat, austin, texas. We'll begin with the changes and corrections to today's agenda. Item number 16 is withdrawn. Item number 27, add as a second co-sponsor mayor pro tem sheryl cole. Noting that at its 2:00 p.M. Time certain, items 51 and 52, councilmembers tovo and morrison ask these be set for a 6:30 p.M. Time certain and councilmember morrison and cole will request item 59 be set for a 7:00 p.M. Time certain. Time certain items for today are at 10:30 a briefing on the walter e. Long request for qualification statement and the austin and travis county reentry round table update. At 12:00 noon we'll have our general citizens communication. At 2:00 p.M. We'll take up our zoning matters. At 4:00 p.M., Public hearings, and at 5:30 proclamations. The consent agenda for today is items 1 through 37 with several items pulled off the consent agenda which I'll go through in a minute. First I'll read the appointments to our boards and commissions and waivers. This is item number 32 which will remain on consent. Nathaniel bradford the mayor leffingwell's nominee. Nicole sunstrum. To the building and standards commission jessica mandrum is councilmember spelman's nominee. To the low-income consumer advisory task force, richard halpin is councilmember morrison's nominee. Resolution number 20141016-xxx appointing the city's representatives to the pilot knob municipal utilities district board of directors for districts 1, 2, 3, 4 and 5. And resolutions number 2011

-- 20141016-xxx appointing the city's representatives to the southeast travis county municipal utility district's board of directors for districts 1, 2, 3 and 4, and resolution 20141016-xxx appointing the city's representatives to the cascades municipal utilities district board of directors for district 1. There are no waivers scheduled for today. The following items were pulled off the consent

[04:16:38]

agenda: Item number 33 is pulled by councilmember spelman. Item 34 pulled by councilmember spelman. Item 37 pulled by councilmember morrison and that item will be heard after executive session. Councilmember spelman.

>> Spelman: We can put 34 back on consent.

>> Mayor Leffingwell: Item number 34 will remain on the consent agenda. We have one speaker and that is michael foley. Is michael foley here?

>> Good morning. Mayor, city council, my name is mike foley, president of equipment southwest. We've been recommended for your contract under consent agenda item 13. I wanted to thank the council and the city for the opportunities that we look forward to and we will take care of this contract as well as the city's needs requires. Thank you very much.

>> Mayor Leffingwell: Thank you. Also I want to mention item number 20 is pulled off the consent agenda for speakers. I will entertain a motion to approve the consent agenda councilmember morrison moves approval, councilmember spelman seconds. The clerk will show me voting no on items 23, 39 and 34. Councilmember martinez.

>> Martinez: Mayor, on item 37 I just have a friendly amendment and we can leave it on consent.

>> Mayor Leffingwell: Item 37 will be pulled from the consent agenda and we'll consider the friendly amendment at that time.

>> Martinez: I was advised by law to leave it on.

>> Mayor Leffingwell: I will pull it from the consent agenda. So those in favor of the motion to approve consent say aye.

[04:18:42]

>> Aye.

>> Mayor Leffingwell: Opposed say no. That passes on a vote of 6-0 with councilmember tovo off the dais. So now we'll go to item number 20. A number of speakers signed up. First is gavino fernandez. Is gavino fernandez here? Paul hernandez. Gloria marino. Marcus deleon. Joe quintero. Julian limon fernandez. Jose velasquez.

>> Good morning, council. Excuse me a second. My name is jose velasquez. I'm the chair of easter seals of central texas. I'm a born and raised east austin night. The reason I preface what I'm about to say with this information is so there's an understanding that easter seals take time to seek out someone who is to chair this event that shares the cultural and geographic areas. I'm asking to you approve item 20 to close east chicon to robert martinez on october 25. We are requesting this closure to ensure the safety of the children and families in attendance as well as the surrounding community. At this juncture, we have followed all city requirements in requesting the closure, met with and received numerous community groups' support and this has passed the urban transportation commission. Thank you for your time.

[04:21:28]

>> Mayor Leffingwell: Thank you. Vanessa maldonado. Vanessa maldonado. Okay.

>> Hi, I'm vanessa maldonado with easter steals of seals of centraltexas and I'm going to yield my time.

>> Mayor Leffingwell: Thank you. Ralph solis.

>> Good morning, council. Ralph solis, william cannon insurance, executive team leader for the event. Looking at it from a risk management position it's reasonable we close the streets both for the congestion and to avoid the parking for the residents so I ask that you approve the street closure.

>> Mayor Leffingwell: Those are all the speakers that we have signed up on this item. I'll entertain a motion. Councilmember martinez moves approved. Seconded by councilmember riley. Discussion? All in favor say aye. Opposed? Passes on a vote of 6-0 with councilmember tovo off the dais. So I believe that brings us to

-- which was the item you pulled? Item number 37. That brings us to item 38, which is closed for sign-up. There are no speakers. It's closed for sign-up. I'll entertain a motion. Councilmember morrison.

[04:23:30]

>> Morrison: Did we do 24 and 33? Were those pulled?

>> Mayor Leffingwell: 33 was pulled. I thought it was, but it's marked off the list here.

>> Morrison: 33 was pulled and I believe 24 was pulled also. No, it wasn't.

>> Mayor Leffingwell: 24 was not.

>> Spelman: 37.

>> Martinez: 37 was pulled.

>> Mayor Leffingwell: Let's take item 38 off the agenda and address item number 37.

>> Martinez: Mayor, I move approval.

>> Mayor Leffingwell: Councilmember Martinez moves approval.

>> Martinez: I had a friendly amendment in the be it resolved that the recommendations from the city manager be returned to council within 30 days.

>> Mayor Leffingwell: Is that accepted by the second?

>> Morrison: Yes.

>> Mayor Leffingwell: Those in favor of the motion say aye. Opposed say no. That passes on a vote of 7-0.

>> Mayor Leffingwell: 33. That was not pulled. It was? It's been marked off the list. Did you pull that, councilmember? [Inaudible]

>> Spelman: Although it turned out to be much more difficult than the legal staff or my staff had envisioned, we do have in front of you the red line version, although because of our printer it's only in white, it is black lined. This shows the changes to the current ordinance and does provide considerably more background material. Let me call your attention, if I might, to the resolved in the last page. It's page 11 of this unfortunately long document. The first one basically asks that the manager shall consider the amendments that we're putting forward and present them for consideration before us on the 20th of November. Revising the code language as necessary to comply with the city charter and other laws. The second is pursuant to the conversation I had with councilmember Morrison and asks that the city auditor develop and implement training and procedures necessary to do some things that they've been talking about doing to improve that you are investigative closeout procedures to make sure people being investigated know they have been investigated, understand the results of the investigations, to expand the detail and use plain language so ordinary folk will understand what they are talking about and continue to refer matters as they have been on personnel issues, violations and other things to the city manager. This is all stuff which is recommended by the auditor anyway. I wanted to be sure we had it in writing. This is part of the deal. They are going to continue to do what they said they were going to do. The third one is particularly came out of our conversation. There is a conversation, we've been having a conversation about how the auditor can get access to legal representation. And there is concern on the law department's part that if they just went out and hired their own lawyer, that would be inconsistent with the city charter. On the other hand, there are legal complications associated with the investigators and the investigated both having the same lawyer. And what this does basically it says you guys go figure it out and come back by the 20th of November with an answer consistent with the city charter.

[04:27:42]

>> Councilmember, if you could change that, in Texas lawyers are not subject to the model rules. The Texas supreme court has the Texas disciplinary rules of professional conduct that lawyers are subject to.

They have taken some of the model rules and the supreme court and the legislature has been added additions and deleted some of those. That's the appropriate standard that lawyers are held to in Texas.

>> Spelman: My understanding is not they were binding on you or anyone else in Texas but they were just good ideas. If you would prefer to substitute as suggested.

>> That's the standard that the supreme court holds lawyers in Texas to.

>> Spelman: Basically hold yourselves to the same standard to be consistent with the city charter, but make sure the auditor gets the legal representation it needs in order to conduct investigations. I'm sure there's a way to do this. I believe you've been having some productive conversations just in the last couple of days on the subject. And finally, if there are some other disputed matters investigative authority, we were talking about purchase, we'll work that out and come back to us in the next month with a proposal as to how to handle it. That's basically the idea. I think it encapsulates all the conversation issues we were talking about and basically says you all figure it out and come back to us and tell us how to do it.

>> Mayor Leffingwell: Councilmember Spelman, I just received a message from the chair of the ERC stating they would like to take up this matter for discussion at their next meeting on OCTOBER 20th. And basically requesting a p UNTIL OCTOBER 23rd.

>> Spelman: Mayor, another way of handling that, I understand why the ERC would like to look at this, this is I believe consistent with item 24 which directs the

-- the review commission and the auditor to talk about who would have authority over investigating volunteer members of boards and commissions. I did not add that therefore be it resolved to this resolution because I was pretty sure item 24 was going to pass and we didn't need to direct the auditor on the ERC to do the same thing in two different resolutions all in the same day. But I think that's completely consistent with that and I think it's completely consistent with this resolution for the ERC to take a look over the next month and come back with their own view as to how we ought to handle investigations, particularly volunteer members. If you would like me to add a therefore be it resolved directing the ERC to

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[04:30:20]

>> Mayor Leffingwell: I think it would be appropriate to honor their request. They requested postponement until October 23rd so they could provide further input. I would personally be in favor of honoring that request. Councilmember Morrison.

>> Morrison: I guess I would like to offer a second option and that would be in the be it resolved at the top of page 11, that it says the process for consideration ask that the city manager and auditor take this and present it and discuss it at the October 20th meeting of the ERC so that we could go ahead and get this moving and the conversations moving. This doesn't actually enact anything. And so this

-- like I was going to suggest adding that in any case even before we heard that. It feels to me like it would be even more productive to have them part of the conversation

-- the full conversation as opposed to as opposed to going through it twice so I would support adding in there.

>> Spelman: I would like to put this on the table to allow councilmember Morrison to write that phrase

and we can take it off the table later in the day and add that phrase and take a vote on it.

>> Mayor Leffingwell: Without objection, item number 33 is on the table.

>> Spelman: Thank you, sir.

>> Mayor Leffingwell: And we'll go to our first morning briefing. Mother. Councilmember martinez.

>> Martinez: Request we briefly reconsider request we briefly reconsider I

>> Martinez: Request we briefly reconsider item 24 and I'll explain why. I'll make a motion to reconsider item 24.

>> Mayor Leffingwell: Councilmember martinez moves to reconsider item 24. Seconded by councilmember spelman. All in favor say aye. Opposed say no. That passes on a vote of 7-0.

>> Martinez: Item 24 was regarding danielle ochoa and this is trying to set the record clear.

Councilmember tovo was off the dais and I would like to reconsider it so we can have full support so I'll move approval of that item.

[04:32:33]

>> Tovo: And I'll second. I'm sorry, I'll let one of the co-sponsors.

>> Mayor Leffingwell: Councilmember martinez moves to approve seconded by councilmember tovo. Seconded by councilmember morrison. I just wanted to apologize for being off the dais during a consent agenda. I got a phone call related to an item that's going to come up later, but I appreciate the opportunity to vote on this. I think it's important she have a full council supporting that resolution.

>> Mayor Leffingwell: All in favor say aye. Opposed say no. That passes on a vote of 7-0. We'll go to our briefing on the walter e. Long r.F.P.

>> Good morning, mayor and council. Good morning, mayor and council. Kevin gamillion, for the parks and recreation golf enterprise fund. I'm here to discuss the solicitation on decker lake that was -- the selection of decker lake golf llc to construct, manage and maintain a public golf course at walter e. Long metropolitan park. The proposal will include no funds from the city of austin and the entire cost of the development estimated at over 25 million will be funded by private investment. The focus of this property really is that we have endless opportunities and recreational opportunities at walter e. Long. We have great opportunities to expand the activities to take place on the lake. Rowing competitions have been considered, small sail regatta, expanded birding, trail expansions and connectivity for cycling. And obviously it's a great location for golf. A little brief history on the park itself is the city purchased this land in 1965. The city completed a long-range plan for the property in 1968. The plan included a golf course and other park amenities. In 1978 the plan was revised and still included a golf course and several improvements have taken place on that property. There was a capital city skeet club. They take up 280 acres on the authority west side of the property. Obviously there's boat ramps. There's fishing pier and picnic area on the southeast corner. The power plant and expo center are within the park footprint. There's approximately 3700 acres of land and lake and approximately 1400 acres remain undeveloped. Probably the most significant thing that has changed is really the activity that comes about by sh 130. The city has continued to discuss golf on this property for over 40 years. The city and the voters did consider a development on the property in 2000 that included a hotel and two golf courses. That referendum did fail, it was a very close vote. The referendum was necessary due to the fact there was location of a hotel on the property which is not considered a park purpose and the

property included a long-term lease due to the hotel. The main difference today is there is no hotel associated with this project, it is just golf. There is no long-term lease. This project will not change the park purpose of the property so therefore there is no need for a referendum. The agreement will be considered a revocable license concession agreement and is similar in scope to our revenue contracts we have within park and the city. Staff did decide on a process for this several months or really almost a year ago and that process was considered a request for qualifications statement and we worked to get input from the community early on in may to kind of give us some focus on where this project should go. That was held on may the 6th. There was many recommendations that were included this the r.f.Q. Process. One of the focuses was about job creation and economic development in this area. Including commercial and retail development. There are no grocery stores and very little restaurants in this area. Some of the citizens indicated that they drive up to five miles to the closest grocery store in this part of the city. Many of the recommendations that we have we included and so improvements to existing parks is always a focal point of our citizens not only within the walter e. Long metropolitan area but also the parks in and around this portion of the park. Continued public involvement throughout this process was certainly focused, increased golf programming opportunities, protect the natural resources and minimize the environmental impact was important. I will note that this item was brought before the parks and recreation board on SEPTEMBER 23rd. The parks board. The board did not you support this project and the board wanted to see expanded community outreach and determine if the public still supports a golf course or other uses on this property. City council, you did receive two neighborhood letters of support from colony park and colony park lake side community development. In addition to that, wildhorse ranch community also has supported this project. A little about the proposal that was turned in by decker lake golf llc. We did issue a request for qualification statement and received two proposals and chose decker lake golf. The proposal was complete, finance and develop and continue to operate the facility. It would include two world class golf courses built in two phase, a waterfront clubhouse, extensive practice facilities, corporate meeting space, food and beverage amenities, all the golf course infrastructure, cart barn and maintenance facilities and other activity. The proposal also includes a short course, golf learning center which would be considered sort of a separate entity. But located within the footprint. The proposal also establishes on the northeast part of this plan to be determined however some ideas have come up. A community garden in that area was mentioned. Potential zip lines, which is certainly a new thing in our area. Nature camps, and as well as expanded picnic and fishing piers. Perhaps the most important part from a proposal standpoint is the golf course architecture. Any time you are designing you want to have high end that needs to have a world renowned component and the two architects, geoff ogilvy and michael clayton, which are an australian firm well known around the world for golf course construction and bill core and ben crenshaw which are local architects but have designed over 20 golf courses worldwide and most notably pinehurst which the u.s. Open was recently held. The property that is outlined in green, the dark green, is the 735 acres action approximately 735 acres. The developer hasn't had a whole lot of time to spend to determine where golf can and can't go but this is preliminary thought process and they will need to get on the property to analyze the environmental constraints so the property prior to a full conceptual design. You can see the preliminary design, in the light green that meanders through the property. Much of the heavily wooded areas will remain and be incorporated into the design. The yellow line running through the property is the power lines which would remain in place and would have to be negotiated with the

design as well. Make no mistake about it, this is a higher end golf facility than our other city of austin golf courses with fees likely between \$150 to \$200. However, they do propose to have a discounted fee for residents of over

-- of approximately 50%. For out of town guest fees they would be paying the higher fee. That was one of the concerns brought up that the parks board and during the community engagement is having affordable golf. Because I operate the enterprise fund and the golf fund, the golf course itself, these two properties would have to remain open to the public because it's parkland. The other thing, we have a tiered fee structure. Our lowest is hancock and lions and we move up to the keiser course and now greater rock being our higher end. This would be the highest end of the tier. We have close enough to 20 to \$30 golf within this area and we have a lot of availability current on existing golf courses. And if we were to design two more 20 to \$30 gloves courses it would place pressure on the golf enterprise fund. The developer was selected largely to the minimalist design experience. They focus on grasses really that do a great job of sipping rather than drinking and buffalos and zoysia. The developer is committed to audubon certification. That's important from the standpoint that it focuses on six core values which are environmental planning, wildlife habitat management, outreach and education, integrated pest management plans, water conservation and water quality management. Perhaps one of the more important features is that we are looking at opportunities for reclaimed water in this area and I'll talk about that in just a few minutes. The location of the clubhouse and meeting space is obviously another important factor. It will be built near the water's edge. There are amazing views down sh 130 and left you can see downtown from most of that area and that property has significant changes and really presents itself well for a downtown viewing. It also by placing the clubhouse near the lake, it gives us the opportunity for partnerships, proposal discussed possibility of a ferry and additional fishing piers from south to north. In addition to that opportunity for partnerships for rowing and special events on the lake itself. We'll have numerous benchmarks for this proposal in this project as part of the agreement. Perhaps the most important one is the financing of this project. They do not own the land so therefore they are not able to really go out and take a bank loan for \$25 million. They will be seeking private civic-minded investors to be involved in this. And the funding will need to be established as we move forward with project start times. Perhaps the second most important thing is the water. Golf courses even if they design with low impact it will have to have water. We've started conversation with the water utility department about the potential expansion of reclaimed water to this area. It has been in part of their long-range plan for years, however, they do not have it currently identified in capital outlay so it's something we need to work with the water utility about how that could move forward. They will be investigating other opportunities for water use, but perhaps the most important thing is the ability to expand reclaimed water to not only this project but the expo center which is close by and there's another golf course that's not city owned, blue bonnet, that would potentially be able to use reclaimed water. The developer will need to be in communication with austin energy regarding the power lines, the power plant. All of those things as we move forward. Perhaps the part about this from a community standpoint is that we

-- we're very early in the process. They haven't done a whole lot of site analysis and that would take place early on in january if this does move forward with approval. They will be seeking the plan for water, conceptual design would start roughly in the middle of 2015 and construction wouldn't start until the middle of 2016 and then potentially an opening roughly in 2018. The developer is very committed to



the public outreach side of this and beginning with the public analysis phase and we'll work through that throughout the conceptual design phase. One of the important ingredients obviously is the economic impact that this will have on the city of austin. It is an economic impact that the city really could realize and is a significant area of town that certainly is thirsty for that. Based projections provided by the austin convention and visitors bureau and the national golf foundation as well as decker lake golf, estimates for the first ten years 28 million. Charitable giving over \$3.5 million. Direct expenditure related to nonstaffing would be operations \$70 million. It would result in visitor spending of \$97 million. Commissions to the city are estimated at \$4.7 million. For a total economic impact of over \$229 million. The agreement does

-- does base the commissions on escalation. The city will be able to out lies those funds and we don't want to put too much pressure on the project until they are established. I spoke a little about the two phases of the project. A second course would be the second phase and that wouldn't take place until you've had success on the phase 1. The term of the contract would be for 50 years with some extensions on that. None of the items that you see on this economic impact really involve anything for special events or a special tournament that might be taking place. What should we expect from the city of this project? The community outlined some of those and will continue as the junior golf, new golf or programs, instruction, certainly golf tournaments and special events would take place on this site. Other park use possibilities, walking paths and running paths, biking trails, additional meeting space, special events, then the ferry boat rides and additional use. We'll talk about the p.G.A. Interest, but with this golf course you get golf and maintenance operations jobs and food and beverage service jobs. But really this property would act as an anchor for future development. It would potentially bring adjacent hotels and restaurants to the property and other commercial uses in the area. This is a high-end development with high-end jobs and service type facility. Some of the additional concerns expressed at the parks board and throughout the community is that we're taking over 735 acres of parkland. I included these slides because I think it's important to note for the past 45 years, there hasn't been a whole lot of access to this part of the property. It's had a fence around it protecting it from austin energy's power lines, but it's also the only access is by boat. It's really from fishing only that you get access to this portion of the property. Last slide really is to talk about the parks supports this project, more about the fact it's more than a golf course. It's a destination type facility. There's certainly targets a different golf market, it's an economic driver to the community and certainly the economic benefit to the community could be realized. It's a destination facility that would be considered similar to a torrey pines in san diego. Pebble beach. Lots of examples that have done similar type projects. The p.G.A. Tour has visited this site. The united states golf association has as well and there's great interest expressed from these two large groups for golf. Really it's all about location, location, location. As far as this goes. I think the proximity that it is to adjacent to sh 130, the airport, expo center, especially for parking and really the circuit of america's as well. The direct comparisons that I will speak to that are

-- we can relate this to, the city of san antonio recently opened the golf course off 1604 as the westin. The valero open is held. They have about 160,000 spectators during the event. That changes that took place off 1604 are amazing. The economic impact from a golf tour event is estimated to be between 50 to \$70 million annually. The san antonio event has contributed over \$9 million in 2014 to local charities. Since 2010

-- sorry, 2002, they've contributed over \$90 million to local charities from just that one tour event. It is

the parks department's hope that this development will generate additional revenue to help the golf enterprise fund to keep fees at other courses lower and hope this development will fund major improvements to other park amenities at Walter E. Long park. I'll leave with you the fact we have been talking about golf on this property for a long, long time. We now have an opportunity to make this vision a reality and it's important to note we do not have bond funds included for improvements to the Walter E. Long park and probably not for many years to come. With that I'll take questions.

[04:50:30]

>> Mayor Leffingwell: Questions or comments? Councilmember Tovo.

>> Tovo: Could we go back to the economic slide, please. Are those revenue percentages, for example, the charitable giving, is that a set agreed upon percentage that would be in a contract.

>> It's based on what they project from an operations standpoint this they want generate from the operations.

>> Tovo: So it's sort of equivalent to the matrix to chapter 380 agreements that's basically assumptions. There's not a commitment to provide 3% of revenue towards charitable events.

>> That would be worked out in the terms of the commitment.

>> Tovo: But they would be laid out in advance.

>> And we would continue to negotiate that through this process, yes.

>> Tovo: And how does that compare to some other cities? I think you mentioned San Antonio as a model for this partnership. Is that equivalent to the kind of terms

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>> very similar.

>> Tovo: Can you get back to the question of fees. And you said this would be on the higher end. What -- give us a sense of

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>> we generally have golf that's \$12 for seniors at some of our golf courses. The average is really about \$22 for our city golf courses. Now that Gray Rock is in our family it's higher, closer to 33. If you average those fees sort of together. But Gray Rock is still in the 65 to 70 range whereas we have \$12 golf for juniors and seniors. We have a fairly wide range of availability for golfers. The Keiser course fits in the middle of that. This is certainly in the higher echelon, but for residents it would be approximately 75 to \$80, whereas nonresidents would pay 150 to 200.

[04:52:35]

>> Tovo: So the lowest fee is in the \$12 range for seniors. What is the regular fee at that course? 22.

>> Tovo: And you said Gray Rock. Gray Rock was 33 or 75.

>> They have senior fees all the way up to their regular membership fees, but the average is about \$55 to play there.

>> Tovo: At Gray Rock. You talked about youth golf programs. What would that look like here?

>> I think the most important part is the short court learning project. It constructs a 9-hole facility that would be incorporated through one of the two architect designs which is really not ever done. We have

one that's similar at the roy keiser and jimmy clay where people can learn the game of golf in a nonthreatening environment. Sometimes golf when you have to play at a certain pace and try to keep up, it can be somewhat difficult. This gives you a different environment. It's more of an unthreatening environment to play golf.

>> Tovo: Do you have in mind there would be some youth programs and would those also be negotiated into the terms of the agreement?

>> Without question. I there any there's an opportunity to partner with

-- not only for rec center programs, for junior golf programs. We have lots of junior programs. What it gives you is another venue but gives the opportunity to expand into a lot of areas that we don't reach folks.

>> Would that be part of the agreement?

>> Absolutely. The nonprofit and the revenues generated would stay within it so it does remain affordable.

>> Tovo: That sounds good. How does

-- can you talk a little about how

-- I guess how do you assess whether or not there's a market in austin for that level of pricing?

[04:54:35]

>> I'm going to invite one of the decker lake folks up to answer that.

>> Tovo: I would say it certainly I look forward to hearing their perspective, but it's a concern if the state and health of our fund depends on higher revenues, I want to be certain that there's some good market research that's taken place to suggest

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>> the research on our end, I would say we're not in a great healthy state from the golf enterprise fund and largely that's more attributed to interdepartmental costs from water utilities that we face. Because of the fact we're an enterprise fund, we should cover all our expenditures and that's been a challenge. Having a different property gives you opportunities to meet different golfers' perspectives. They've done a lot of research why they believe this would be successful.

>> Tovo: Can you explain your comment that adding another golf range in the \$30 range would be

-- could be harmful for the golf

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>> well probably the most important thing, we're running 30 to 45% capacity at existing golf courses which is not unusual for central texas. But what that means is we have plenty of availability now and in order to really be solve vent, we know we're not going to get everybody to pay. We need more people paying \$20 golf and I don't need two more golf courses.

>> Tovo: Thank you. That makes sense.

>> Mayor Leffingwell: Councilmember morrison.

>> Joe ogilvie. I just recently retired from the p.G.A. After a 15-year career. Spent a few years on the board of directors of the p.G.A. Tour and active in the political mechanism of the p.G.A. Tour. With respect to if there's a market for this type of golf, I think that currently or five years ago I would have said no. But with the growth of downtown hotels, our market is basically leveraging the new hotel

market that's coming, the j.W. Marriott, the westin and talking to current g.M.'S at the hotels, most of the golf they send their existing customers to are outwards of 45 minutes away from the hotel area downtown. They have indicated that as austin grows, more from a convention standpoint, that we're going to need more golf. Just to lure more conventions. If you look at the major convention centers in the u.S., Phoenix, san antonio, southern california, chicago, most of them have four to six 36-hole facilities. Austin currently has one 36-hole facility, 54-hole facility at barton creek which is largely private. There's no 36-hole facilities in this market. That's on the higher end that would kind of lead to the convention and visitors bureau. We also think this is a destination-type resort. With the architect we've selected, we think this is basically abandoned dunes which is way out in oregon type property. You have architecturally significant golf which the trend in golf is architecturally significant also means it's sustainable. And the way our architects design golf is we let mother nature kind of determine whether the ground are fast. If you have a lot of rough. If it's green. You know, the trend in golf now is brown. If you saw the u.S. Open, a lot of people were saying the course looks like it's burnt out. That's the way golf is going. We have the united states golf association, which is a governing body of golf on the property already. They are excited to make this kind of their show piece for what golf could be in the southwest. In drought, drought areas. So I think this is

-- I view this as certainly a golf course that, you know, 100 years from now the citizens will think you all are brilliant, especially since you are not going to put a dime in it. But I also think that it's something that we can kind of showcase to the southwest to say this is what golf can look like and what should look like from a grass standpoint, from a sustainability standpoint. We know we can't use a lot of water, which is a blessing in the way we do the golf course.

[04:59:25]

>> Tovo: Interesting. So how does the san antonio course interact with this one? Is it an advantage to have one down the street or could it

-- could it be pulling potential convention ears away from austin's course.

>> I don't think it necessarily an apt example in the sense the san antonio course does host the p.G.A. Event however, it's anchored and owned by a 1,000 room jw marriott. So it's mainly literally a resort golf course and they don't have reduced fees for san antonio residents. I think a more apt description is probably the city of san diego and what they did with torrey pines and the new york burrows what they did with their

-- I'm blanking, beth paige, which is a big state park. They have 72 holes or maybe it's 90 holes within their footprint there. And what that is is they have a reduced fee, tore repines is on the pacific ocean. Then they charge if you were to go there they would charge you \$250 to play. That is a more apt description I think. Torrey pines and beth paige have both hosted united states open. They host torrey pines hosts an annual p.G.A. Event. Beth paige has hosted a p.G.A. Tour event, one of our playoffs. And I think that's kind of what we're going here.

>> Tovo: So your point there is that those are better examples

--

>> those are on city property.

>> Tovo: And san antonio may not draw

-- may not draw golfers away from this market because we're offering them a different experience.  
>> I think that's right. Jw marriott, the p.G.A. Tour runs the course in san antonio. So we  
-- it's almost captured. The community certainly plays it but a lot is the convention and the  
-- the the conventions hosting the jw marriott.

[05:01:37]

>> Tovo: I have one more question about pricing from staff. But if my colleagues  
-- I'll yield.  
>> Mayor Leffingwell: So revenue stream to the city, to the parks department directly. I believe I've  
heard some discussion about something called a bag fee, a fee per round of golf which would  
-- do you have any feel for how much  
-- what that stream of income to the parks department would be?  
>> Well, I think that we've kind of  
-- when we were discussing it prior to the r.F.Q., We were talking about a per bag fee. I think the parks  
department and purchasing has  
-- would rather have groceries so it's more consistent  
-- gross refuse knees and we look at on a sliding scale, once we get to 36 holes it would be north of a  
million dollars a year not including any events we have. Certainly events will increase the amount of  
revenue we have at the golf course. And as we  
-- as the revenues get higher, the percentage that goes to the city gets higher.  
>> Mayor Leffingwell: So that million dollars is money that the parks department could use for any part  
of their budget or is it dedicated specifically to golf or to that facility?  
>> That's  
-- I think that's up to council and the parks. I think we're happy to  
-- certainly from an east side of austin standpoint, we would love it to stay in the east side and stay at  
walter e. Long park, but I think that's a discussion by you all as opposed to us.  
>> Mayor Leffingwell: I hadn't thought about this before about convention traffic that comes to  
-- people that are staying in downtown austin hotels, they really right now have no premium golf course  
to go to unless they go way outside of austin.  
>> Right.  
>> Mayor Leffingwell: Way southwest or way normally northwest. I don't know of anything to the  
northeast. I know there are premium courses in the area, but you have to drive 45 minutes or an hour  
from downtown austin to get there. So it seems to me that that's an amenity not only for our hotels but  
is potentially capturing that revenue for the tuesday city of austin as opposed to having it go outside the  
city. Councilmember spelman.

[05:04:06]

>> Spelman: The primary competitor would be barton creek golf course. Is that accurate?  
>> That's correct.  
>> Spelman: How long does it take to get from the w to the barton creek golf course right now?

>> Depending on time of day, but I would say certainly about 25 minutes would be safe.  
>> Spelman: 25 minutes?  
>> I think that's fair.  
>> Spelman: Okay. And about how long will it take to get from w to this course same time of day, 15, 20?  
>> I'd say 20. You actually have a loop. You can go 35, 71, 130 or 35, the new 290 or out mlk. Kind of a  
-- it's a very easy golf course to get to.  
>> Spelman: You've got options either way. But there's not a big difference in timing going east other west.  
>> I believe that's correct. You are closer on the east side. That gap will only increase because there's just no thoroughfares to the west side of austin.  
>> Spelman: That's going to continue to be easier to go east.  
>> Infrastructure east is great.  
>> Spelman: So right now I check into the w, I have my bag, I talk to the concierge, she sends me to barton creek. What kind of capacity are we dealing with barton creek? I understand it's not a public golf course.  
>> Yeah, it's a little bit  
-- I don't want to speak  
-- I can't speak for barton creek, but I think they have a 350-room hotel and over 1,000 members so they don't have the capacity  
-- certainly if the w hotel said we have a convention and we need 25 tee times for today, that's not going to happen.  
>> Spelman: Okay.  
>> They don't have that capacity. And they are very constrained on what they can take from outside play. And the current rate  
-- just so you know, the current rate at barton creek right now is for an out of town guest is \$279.

[05:06:15]

>> Spelman: Okay. So we would be providing a pretty good golf course for less than barton creek, a little closer and we would have more tee times because we don't currently have a hotel on site which is eating up most of the available tee times.  
>> That's correct.  
>> Spelman: Okay. You said a few minutes ago that five years ago you would have said this was not  
-- there was no market for this or not sufficient market to merit this kind of attention, now you would. Hypothetically, if this golf course were in place right now, would there be a market for it or is it in five years?  
>> I think there would be a market for it especially with austin's growth. And you know, I also think that, you know, quite frankly, you are not going to be able to build golf in austin very easily going forward. Drought, land costs and you are going to have to get further and further out. But austin is going to put on something in the neighborhood of 3,000 or 4,000 hotel rooms and we have one of the most robust

hotel businesses in the united states. So the fact that there's a limited supply of golf, and this is a very high-end revenue for a night market, we think that kind of dove tails. Then, you know, it's important to note that the citizens do get world class golf at a very reduced rate. Currently they have to travel, you know, probably, you know, 200 miles to get this type of golf. And there's no current golf course in the city that can host the p.G.A. Tour event.

>> Spelman: So this is going to be a better golf course than barton creek, then.

>> It is our hope.

>> Spelman: I understand.

>> I think barton creek is a great place.

>> Spelman: I understand. I understand you don't want to run down barton creek.

>> We think the land is very conducive to build great golf. We don't have to move a lot of dirt. We're not going to build artificial water and things like that because the more you build water, surface area water and fake water, the more it evaporates and the more water you lose. We think this course is -- p.G.A. Tour called it the most compelling site in north america. Part is that just we've got 6,000 paid parking spots at the expo center. That type of proximity to a golf course doesn't exist. And we have a dedicated exit already on 130. It's a very compelling site. If we do our job and create great golf.

[05:08:58]

>> Spelman: My apologies for mentioning this, but I have no choice, I hope their belief this is a compelling site was merited from having walked on the site and not from this very lovely picture which shows you have either poured the sierra nevada or the rocky maintains into austin, texas.

>> Mayor Leffingwell: The hill country.

>> Spelman: The hill country is snow capped and about 4,000 feet, which I fully support. If there's a way we could get that to happen.

>> I can't speak to the tectonic plates that might push up.

>> Spelman: So it's a really good site.

>> It's a wonderful site.

>> Spelman: How does it speak to price point of \$100 to \$200 a round?

>> I think the architect and a lot of people that are local don't realize, the ben crenshaw and bill car are probably the best two architects in the world right now. And what's interesting is from a golf history standpoint, the greatest architects in golf never made it to texas. The donald rosses, the

--

>> Spelman: Bobby jones.

>> Those guys never made it to texas so texas doesn't have great historical golf. What bill core and ben crenshaw, being from texas, it really helps. I think they are going to create something special and they are now the u.S. Open doctors. They are basically going every u.S. Open course and kind of pruning them up or doing a couple of nip and tucks that they need to host the united states open. These guys are

-- these guys are world class and we're lucky to have them in austin.

>> Spelman: And they've gone through the site.

>> Ben has been on the site a couple tax. BACK IN THE 70s AND 80s AND 90s AND NOW RECENTLY As

two months ago.

>> Spelman: Okay. Last question. And this is an operational question. As I understand the deal, we've got land, we provide with you the land and you take over from there. You build the course and run the course and we get a small portion of the profits.

[05:11:16]

>> You will get a small cut of the revenues. You are protected on revenue.

>> Spelman: So even if you are not profitable at least from the beginning we'll still get a cut of the revenue.

>> Yes.

>> Spelman: If

-- again, my apologize, but somebody has to ask this question. Suppose this doesn't work out, maybe the timing isn't good, the convention market is terrible, people stop playing golf. From the city's point of view, if you guys go bust, what happens to us?

>> Well, we will have it funded

-- part of the

-- we're not going to be able to put that on this which drastically reduces the odds of failure. So this will be done without debt. We think we've mitigated a lot of the risk, but we'll be raising at least, you know, probably two years of working capital. If we open in a severe recession or something like that, we ought to be able to weather the storm. And I think what we're doing is creating something that, you know, we think is going to be ranked nationally. So we also think that that mitigates some of it. We will not be building a giant clubhouse. This will be operated, you know, we don't have huge egos so we're not going to build the taj mahal. We're going to try to build something that separates relatively inexpensively but still provides everything that the golfers need. The golf course, like I said, we're going to operate it so it's sustainable. Put the sustainability is building it so you can operate it without losing a lot of money.

>> Spelman: So okay, it sounds like you are being very sensible. You build the taj mahal, you take a risk. You are putting your money on the course.

>> Our goal is get the golf right. If we get the golf right, we're requiring right from the beginning,

-- hiring right from the beginning, it makes it a lot easier from there.

[05:13:22]

>> Spelman: Sure. I see somebody from the city, let me ask a followup question.

>> I was just going to mention this is a revocable license. Either way it if fails, it is city property. It is city property.

>> Spelman: Sounds to me like a sensible idea and I think they've done thundershower homework, but if it doesn't, we end up with the land, the golf course, we could operate it ourselves.

>> Yes.

>> Mayor Leffingwell: Quick followup. On the discussion about the p.G.A., I would assume this, but I just want to ask the question to be sure. The design of the golf course would be

-- it would be designed to accommodate a p.G.A. Event should that opportunity arise. Is that correct?



There's a lot of extra stuff that has to be there I know.

>> There is some stuff, but at the end of the day we're going to design this for if we're lucky enough to get a p.G.A. Event, we're going to design this for the 51 weeks golfers are playing there and not just the best golfers in the world. We have to make it a little longer than we normally would and all that -- talking about length of the golf course, but we have plenty of acreage to get around spectators. The reason austin doesn't have a course to accommodate us, as you get west, the best golf courses have been west of the city. The rock and the violent topography makes it impossible to get spectators around it. If tiger woods or phil mickelson or rory McIlroy came to the tournament, you have so many spectators and don't have a way to get them around the golf course.

>> Mayor Leffingwell: That's what I meant, have you to have places for spectators to walk and sit and watch the game and you have to have, you know, tent space and all that kind of stuff.

>> You have to have ingress and egress for the spectators. With the expo center and sh 130 we have that and we're lucky.

[05:15:31]

>> Mayor Leffingwell: So the bottom line answer is yes.

>> Absolutely.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: My first question so staff is what is the fair market value of the land that we would be making part of this agreement?

>> Real estate hasn't done any formal study on that. I think that we've heard numbers anywhere from 8 to \$10 million. I don't think that anything is official by any stretch. It's been taken place by the real estate department.

>> Cole: 8 to 10 million, but we don't know yet. When you talk about it being part of a revocable license, what does that mean? There's a certain period of time it's up for renewal?

>> Sure, but we're going for a long-term agreement here, over 50 years. It's a longterm with suspension. We have a revocable license with butler and all the con investigation agreements we have are all very similar to this. This just has a longer term. We have some that have 25 and 30-year contracts.

>> Cole: Okay. So what I'm trying to make sure that we make real clear to the public is whether or not this is a good return on investment for the city. Even though it is land that we are not currently using as parkland, but it is parkland and we're contemplating this agreement, I want to know what the gross profits that we are estimating would come from the agreement. Now, is that laid out in this schedule of the economic impact? Because I don't see

--

>> the commissions and the top of that pie graph there show commissions that would come to the city from operations in the first ten years is \$4.7 million. That's in the lower end of revenue generation because for the first five years you only have one course open, that increases through time and peaks out at 11% of revenues once they reach 16 million which they anticipate reaching 16 million in revenues in just around the first ten years.

[05:17:34]

>> Cole: So the commission's number is actually the contemplated profit to the city over the ten-year period.

>> That's correct.

>> Cole: And when we talk about visitor spending, that's at 97 million over a ten-year period, what is that?

>> Numbers that have come from the convention and visitors bureau based on the traffic flow through tour tourism and uses in austin.

>> Cole: I'm trying to figure out visitor spending on austin products? Is that

--

>> yeah, true. That came from the austin convention and visitors bureau and that number is what they estimate that

-- it kind of came from a typical visitor to austin, what they spend on hotel, what they spend on dinner, at the golf course. That's that. And then the sales tax revenue I think is derived as a derivative from that, from that spent. So if it's 97

-- where sit? 97 million. The city sales tax would be the derivative of that \$97 million.

>> Cole: So the city sales tax is \$2 million, which makes perfect sense, it's just the 97 million seemed like an awful lot of money to be

--

>> let's say they spend \$150 on a round of golf. They are going to stay at the driskill or stay at the

-- you know, marriott or hampton inn or somewhere, they are going to spend an average of I want to say it's \$175. They are going to spend while they are in town, they are going to spend \$40 on dinner or \$30 on dinner. 10 on lunch. So it escalates. It is a big number. What that is, that's a ten-year number.

And that's what has been estimated. I think we had it something like

-- we have 25,000, probably an average of 25,000 out of town rounds.

[05:19:43]

>> Cole: Let me tell you what my concern is that I would think we would be able to get our arms around a figure real solid for, like, hotel occupancy tax. At a p.G.A. Tournament you usually have these numbers.

>> This came directly from the

-- we don't have the expertise on

-- what that a visitor does, but relied solely on the austin convention and visitors bureau. This model does not have a p.G.A. Tour tournament in it. So we just didn't think

-- because we do not have a guarantee or a date right now. So we did not put a p.G.A. Tournament in there.

>> Cole: So we're kind of speculating about some of these numbers because we don't have an actual

-- it's not based on an actual previous

--

>> well, I think it's based on previous events to austin and what a previous visitor to austin has spent in the past. And I don't know what they use as their escalator from an inflation at that particular time, but I assume they use 2% as inflation standpoint. So over a ten-year period, that's the way that office

modeled this out, I believe.

>> Cole: Okay. I appreciate the economic impact analysis, but I would hope as we move forward we would get more concrete numbers based on concrete data that actually apply to a golf tournament or rather than just formula one or some other analysis. Thank you, mayor.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: Yes, if I could just ask you a question because somebody just sent me some statistics and I would just like to hear your thoughts on the matter. And that is that masters t.V. Viewing was down 7.8% this spring, 160 golf courses have closed nationally in the last ten years. One study shows a drop in participating golfers by 24% since 2002. Do you have comments on all that and how that impacts what you see going on?

[05:22:03]

>> Your data is wrong. There's been 160 courses closed in the last year, thought the last ten years. There's a golf course closing every other day.

>> Mor WHY IS THAT?

>> We overbuilt in the '90s. I'm from columbus, ohio. Columbus, ohio within a 45-mile radius of downtown has somewhere in the neighborhood of 78 golf courses. We're bigger than columbus, ohio. Austin, texas has somewhere in the neighborhood of 48. But we're a couple hundred thousand people bigger in the area. There was a lot of bad developments built in the '90s. Since then your experience in a net decrease of 160 golf courses a year, we foresee that being probably another -- that will probably go on hopefully for the next couple years. There's just not going to be as many golf courses built which we look at you do have fewer people playing golf as a percentage, however, you do have

-- you do have better golf courses doing better. What I mean by better golf courses, more architecturally significant golf courses. Courses that are really done

-- people have discovered they like to walk and play golf. People discovered they don't want to take a golf cart around cart paths and they actually want to walk and enjoy the game, enjoy nature. That's what our model is. There's going to be fewer golf

-- another reason quite frankly land has gotten more valuable. Golf courses sit on a footprint of 90 to 150 acres. If you've owned a golf course and your city has grown, that 150 acres is very

-- is worth a lot of money. We're seeing it unfortunately we're seeing it with lions municipal right now.

So you have a lot of those type of situations throughout the country that there's a golf course at doral, doral was in bankruptcy. The golf course was losing \$800,000 a year, but they sold 120 acres for 180 million. That economics works if you are the landowner. I think that's another reason. But you are seeing -- there's no doubt you are seeing fewer golf courses and fewer golfers. Golfers.

[05:24:36]

>> Morrison: What was GOING ON IN THE '90s? Was there a surge in popularity of golfing?

>> Tiger woods.

>> Morrison: Oh, I missed that.

>> Yeah, I grew up with him and he was pretty awesome.

>> Morrison: I missed that.

>> But tiger

-- tiger came on and the surge in popularity of golf and he caught the national golf foundation to massively overestimate the amount of golf courses needed in the country.

>> Morrison: Interesting, I do know who tiger woods is, it just didn't catch me up in the golf craze.

>> It's important to point out the masters did receive a little bit of lower rating, but we would certainly like to be the masters here in austin.

>> Morrison: And I have questions for staff, but I know that we're still going around on this so I'll yield.

>> Mayor Leffingwell: Questions? Councilmember tovo.

>> Tovo: I have another question about the fees so I think that's probably for staff as well.

>> Thank you.

>> Mayor Leffingwell: Go back to

-- councilmember tovo.

>> Tovo: Thanks. I want to go back to the fees again. It strikes me that 50% for a resident is still pretty high and I wondered if you had contemplated or whether it could be negotiated in the agreement versus a deeper discount for residents of the immediately adjacent areas because it strikes me they are likely going to be impacted as this develops and if, you know, if this moves along and develops into an amenity and it would seem to me appropriate to have different rates for those within the immediate surrounding area.

>> It's not something we've contemplated really and my main reason why would be golfers are very regional. They don't come out of specific neighborhoods as much as they do

-- because our golf courses aren't in every neighborhood like a pool or recreation center. It's something we could take up and discuss, but it is not something that

-- golfers generally travel. They are travelers.

[05:26:40]

>> Tovo: I understand that. I guess, you know, in this case it is, again, the 50% discount is still very steep. It's especially steep, I would think, you know, for residents of the immediately surrounding area and I would like to see them be able to access what is their neighborhood park. Amenity in their neighborhood park.

>> The one thing about golf that wasn't the case ten years ago is we discount

-- those numbers I give you, there are specials at gray rock for \$25 and there are specials we do all the time for

-- we could run discounts specific to neighborhood areas. The problem is when you set things in stone saying you are within a one-mile radius or five-mile radius, that's a difficult thing to control. When other areas come in they want to be part of that. It does present new challenges.

>> Tovo: I can understand it would present new challenges. Seems like you could work it out pretty reasonably.

>> It's possible.

>> Tovo: Through a membership card or something like that. I would suggest that be considered as it

goes forward. It's something I'm going to be considering as that agreement comes back to us.

>> Yes, ma'am.

>> Tovo: Have you had any feedback from neighborhood associations or community groups in the immediately adjacent area about that particular aspect of it?

>> The affordable thought process is always important. The hard part from a golf administrator's standpoint is we have a golf course that's \$20 that's two miles away. You know, and another one that's four miles away. There's golf courses within those vicinities that are affordable and we have introductory game opportunities for people to learn the game, start the game and they are really fairly accessible now. So this is

-- we've got to make sure we don't put too much burden on the current enterprise fund because if I build more 20 to 30-dollar golf courses it takes away from the 20 to 30-dollar golf courses we are trying to operate successfully.

[05:28:43]

>> Tovo: I was suggesting it for a limited number of immediate neighbors. Not across the board.

>> I understand.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: Thank you. I think you mentioned in the beginning of your presentation that the parks board thought more outreach needed to be done. They weren't willing to recommend it. Can you remind me of what exactly they thought needed to be done?

>> Sure. And I think I have the language close. The board did not approve the finance, design, management and operation of a municipal golf course at walter e. Long metropolitan park until after completion of the communitywide public planning and input process to determine the best use of this property and recommends that this item return to the parks board recommendation before final council consideration. I think the focus of that, there were several conversations that took place. Colony park comes up and that was one of the thought processes. At the time the parks board specifically asked what is colony park want to do with this. I will tell you and we can bring purchasing up, but part of the problem with a purchasing situation you can only get so much information. We couldn't engage the public and council until you ask for a professional. We're sort of tied with what sort of information we can give because there's items we cannot discuss. Colony park believes and has taken more information to determine this is the good idea for them. So that's why they have sent a letter supporting that. Same thing with wild horse. Some of those

-- the groups that were invited to our community engagement weren't able to come. We didn't have a bunch of those, but it was a wide swath that we took to get people involved in that. [One moment, please, for change in captioners]

[05:31:24]

>> I know the colony park plan is taking consideration of getting different levels of income and things like that. Has anyone taken

-- and

-- and I bet you are going to see it hasn't been you. Taken  
-- taken a big picture look at, you know, 30 years from now, what pressures do we see coming on housing because, you know, if it's going to be this  
-- this economic boom and a  
-- and a destination, it could be that we see  
-- I mean, we've got some control in the one piece of property that large piece of property, we could see a huge increase in housing prices and all of a sudden, we're in a really bad situation of having  
-- of driving out the folks that were  
-- lived there and their kids wouldn't be able to live there and I know we have one tool that's available and that's preservation districts. Has there been any like big-picture talk about that, because we can't drop the ball on that kind of question.

>> You are absolutely correct, that's not my area of expertise. [Laughter]. However it has been discussed several times. Back to the

-- when we were meeting with colony park about neighborhood housing and those points is that absolutely affordability it's not just golf, it's about everything in that area that we have to maintain that. I believe because of the location of the expo center, all of the things that are around this area, you're going to have to slow growth down at some point. There will be a day when you have to slow those things down, we are far from there now. This type of thing does drive housing prices up and we have to protect that.

>> Morrison: Well, maybe this can be a question for later or maybe

-- was, mr. Lumbreras I'm going to put u on the spot. We need to look at that and use homestead preservation districts, if we had five years ago, 10 years ago, put a homestead preservation district in what we now all central east austin, back then we just called it east austin, we would have a very strong tool in place and to me we need to be thinking 30 years out on where homestead preservation districts go.

[05:33:32]

>> Good morning, mayor and city council, bert lumbreras, assistant city manager. It's really bigger than this project and also the development with the transformation grant that is occurring right now at colony park. One of the commitments that we will have moving forward, because we see this in parallel with what's happening with the golf course, in other words the golf course and the transformation grant and the continued work beyond the grant. One of the things that we're committing to is committing staff to be able to help work with the neighborhood in terms of the master planning process, not only for the property, but then also bigger picture. And you're right. Homestead preservation is going to be one of the tools that we would be looking at. We don't have that nailed down yet. But our commitment is that we need to have someone that is dedicated to help us work through those issues and later on. So I don't have an answer for you yet as to what that's going to look like, but I do know that beyond the transformation grant, which is at the end of this year, we're committed to keeping this momentum forward with a big focus on affordability, a big focus on the development that is compatible to the neighborhood and then how this blend in well in trying to keep that pressure that  
-- that does happen whenever you have these big developments occurring in the neighborhood. So I

know that's a little bit broad, a little bit general. I think that I can safely say that we are committed to focusing on that beyond these projects.

>> Morrison: I appreciate that. Because I think we need to make sure that we have something more than just a plan that says, yes, our desire is to have affordability. We need to be, you know, nuts and bolts, put real things in place and mentioned that we just passed a resolution today on preservation of affordable housing and setting a goal of preserving 20,000 units over the next 30 years. And this is

-- this is, for example, a prime place to

-- to be able to look for tools to make that happen:

>> Sure. I do know that staff has already

-- is already completing the work on the homestead preservation districts and as a matter of fact I just saw the presentation that's going to go before the city manager here pretty soon. So that work is about to be completed, you should be getting that here fairly soon.

[05:35:48]

>> Morrison: That's great. I don't recall that this area was one of the areas necessarily

--

>> I don't recall either. But I think that the

-- but I think that that discussion needs to really fold into what we're looking at here.

>> Morrison: Great. I appreciate that. Because we've got some big challenges ahead of us. Then I have one more question for

-- for our golfing manager and that is

-- I apologize, if you mentioned this before. Timing. What do you foresee in terms of action?

>> Moving forward? Sure. The project itself from the timeline would really get started with community input. Early on in 2015 if this moves forward, golf course construction would start roughly in the early part of 2016, you try to build a golf course in the down growing months of the season, could potentially open late to mid 2018.

>> Morrison: And what about council action on this?

>> So this item is scheduled to come forward next week, on the 23rd for approval of the negotiation.

>> Morrison: Great. Then I just want to mention that it is a beautiful place, I went to school nearby there, but it has the pacific ocean on one side, so if we import those mountains, let's go for the pacific, also. [Laughter].

>> Thank you.

>> Morrison: Great, thank you.

>> Duly noted.

>> Morrison: And the surf and

-- hang gliding, yeah.

>> And the weather would be nice as well.

>> Mayor Leffingwell: Any other questions. Thank you, next briefing is the austin travis county reentry round table update.

>> Good morning mayor, good morning city council, my name is laura [indiscernible], I actually work for travis county health and human services, but I'm here today with my reentry round table hat on. I'm a

newly elected chair of the reentry round table planning council. We will a collaborative group, the county has a seat there, the city also has a seat, as well as multiple other service providers and government representatives and

-- and criminal justice system representatives. The city invests some dollars into our organization to kind of keep this collaborative macro level add advocacy systems. I'm here to update you. The first slide ... Can I click this? The first slide is just to kind of give you an update on the data from the international perspective. These are u.S. Prison releases up until 2013 start IN THIS THE 70s. The u.S. Numbers are kind of slightly declining, but you can kind of see the red bar at the bottom are the texas numbers, which are still kind of remaining about the same, maybe a little slight decrease. We have quite, quite a number of prison releases in texas. The data will show you, I broke this out into u.S. And then texas and then locally. So from a national perspective, we are releasing 650,000 people a year from u.S. Prisons. An additional 850,000 are on a parole, 4 million people on probation. It's a pretty large number of people who have a criminal history in the united states. In texas, these are the numbers in texas. When we -- when we worked with the city manager's office on this presentation, I was telling them about the 12 million people having a criminal record in texas is a pretty large number and that's a number that reflects d.P.S.' Response to that, this is the number of people who have committed a crime in texas. They may not all live here now, but this is a very significant number of people in the population. Locally, we're probably releasing about 2700 from prison each year, 2800 on parole. 16,000 people on probation. Here are a couple of maps to show you what the parole distribution looks like. This is just parole, not probation, not people who have been released on a flat discharge sentence, but just parole. So you can see here the dark red areas are the areas that have greater than six per thousand adults on parole. So you can see how it's kind of concentrated to the east and to the north. And here is the change in the number of parolees per zip code. So this is

-- you can see the areas in blue are ones that have decreased, so you can kind of see it going down in the central east austin areas, although there's still a great concentration there. But you can see more than a 5% increase going up north and then into the eastern parts of travis county. To sort of pushing or kind of pushing the parolee population outside of the city and into those unincorporated areas into northern parts of travis county. Here's some cost benefit analysis, this is just to kind of keep you guys informed when you are looking at social service dollars, when you are looking at programmatic issues. For every dollar that you spend on employment training and job training programs, there's a benefit of \$44, that's -- that's factoring in criminal justice costs of what it costs to incarcerate people, what it costs for victimization, costs to the community. For every dollar you spend on drug treatment in prison, there's \$29.40 of a benefit. For cognitive behavioral therapy for high to moderate risk offenders, a benefit of \$26. For every dollar on intensive drug treatment in prison, 13. And then for every dollar spent on outpatient drug treatment in the communities, a benefit of \$9. For every dollar spent on policing, there's a benefit of 6.52. We are spending \$3 billion in texas on prisons each year. That equates to \$21,000 per prisoner per year on average. For comparison's sake the federal poverty threshold for a single member threshold is \$11,000. State funding for probation is 300 million. And parole 165 million. And then local funding for a.P.D. So ... The re-entry round table is our vision is that we have a community that really values and supports successful redisturb entry of formerly incarcerated persons and individuals with criminal histories. So our goal is to help these folks find a better way, help them while they're in prison, but also when they're getting out to have opportunities to make their lives



better, so that this is not a repeat cycle. Our mission is to be a robust collaborative to promote public safety and through effective reentry and reintegration. We were [indiscernible] in 2004, celebrating our 10-year anniversary this year. We're open to organizations and individuals who want to be supportive of our mission and want to be helpful. Our planning council is about 21 members and we have government agencies, faith and community based organizations and other interested advocates. You can see our planning council is quite diverse. We have folks from

-- that are formerly incarcerated themselves, we have folks from probation, we have the DA's office, we have the university of Texas, we have quite a different

-- quite a cross-section of individuals in the community who are interested in working on this issue.

These are some of the challenges that you guys probably already know about. But we talked about that number, about 12 million people in Texas have a criminal history. A lot of those are going to be misdemeanors, but a lot of those are going to be felony convictions. Once you have a felony conviction it's extremely difficult to find work and extremely difficult to find a place to live. There's very few places that will rent to you with a felony conviction and very few places that will hire. Without a place to live or a place to work, it becomes extremely unlikely that you will be successful in the communities. Family reunification is also an issue. Many of the women that are incarcerated in Travis County are actually from Travis County are not incarcerated here. They are incarcerated all over the state. Our state jail for women is actually in Gatesville, so most of our non-violent, low level women from Travis County are actually incarcerated in Gatesville and really not much is happening for those women in terms of services. And oftentimes they are primary caregivers of children. What we see here is a major issue here in terms of intergenerational cycles of crime. You guys probably know, too, oftentimes there's a cycle getting caught up in a cycle of not paying child support and then going to jail and then not having your job and then getting out and not having child support and then going back to jail. Oftentimes there is a backlog of owed child support as well as owed other kinds of back rent or creditors or other kinds of bills when folks have been incarcerated for a while. Which is difficult to catch up on when you get out. We generally have a lack of capacity in mental health and substance abuse services, what we end up seeing is a majority of the folks sending to jail are folks with mental health diagnoses and substance abuse disorders and we aren't really doing an effective job at treating those, we are having a lot of recidivism related to mental health and substance abuse. And identification. This has been an issue, the reentry round table has brought before the legislature several times for advocacy efforts around being able to -- being able to walk out of jail or prison with a valid form of identification. Because oftentimes when you are arrested that stuff gets lost, you never had it to begin with. I formerly worked in a non-profit where we worked with folks coming out of the state jail, 50% of them were homeless at the time of release, oftentimes they didn't have an ID to begin with. One of the biggest struggles was finding someone an identification card to get them a job. If they walk out of TJ with an ID that said offender at the top, it's going to be very difficult for someone to hire them. The first thing that we would do is try to get them a valid Texas ID. But that vendor card is not accepted as a primary form of identification. It became a cycle of how to find the right ID documents, it took many weeks to get someone an ID to get started to get their life back in order. So here's what we're working on at the round table. We have just finished a three year strategic planning process. So we are going to be working on some research. We just finished a reentry report card that will be disseminated this fall. We're

-- we developed a presentation for employers on the benefits and strategies for hiring former offenders,

kind of what are benefits to your business in doing this, how does it benefit the community, what kind of ways can you be successful in doing that, because we know it's a challenge. We're conducting presentations at the sheriff's office vision summit, the restorative justice conference, state reentry coalition, several local case management service provider networks on another presentation we developed called reentry 101 for case managers. That idea of that is to educate folks that may be worked in the non-profits or social service providers, I did a training for health and human services at the county on

-- on considering issues of criminal background when a client comes to you and there may  
-- they are maybe presenting as homeless, but they also have a multitude of criminal history barriers, the way that you're going to address that as a service provider may be very different and the way you're going to engage that clients and the way that you might need to serve as an advocate in addition to a social worker or a counselor in that situation. We're putting out quarterly newsletters trying to keep everybody updated on what's going on nationally and locally around best practices. We're serving as advocates in the area of housing. We're working with echo on ending chronic homelessness on the coordinated assessment system. We're helping to advocate for housing first permanent supportive housing and reduction in criminal history screening criteria because what we know is that a lot of landlords and businesses and service providers are

-- are wary of serving this population. It's a challenge. It's very difficult. And so it's easy to kind of say we're going to do this case by case and what we are advocating for is more transparency in criminal history screening policies, so we kind of understand how it's going to work and who is eligible for what, what the reasons are because oftentimes what we're seeing is that those folks that are homeless that have criminal records that there's nowhere for them to go. It really only perpetuates the cycles of crime and homelessness, so we really want to integrate those issues and not make them separate. Issues of homelessness and also looking at someone's criminal history and not suggesting that it's not the same issue. The same

-- same kind of advocacy around employment. We're trying to inform our local partners on some of the eeoc enforcement guidelines, on arrest and criminal background and hiring. Eeoc has early didded that this group is a protected class, mostly because of the disparate impact on minority populations, so we are helping to try to kind of informally and more formally educate folks around what are those hiring practices and maybe people don't know that it is not acceptable according to the eeoc to put out a job posting and say no felons. Our women's reentry services initiative is

-- is a look that we're doing, we are trying to integrate across all of our goals for the reentry round table to look at women's services because the women are being underserved. They're not the major population in prison. Most of the population in prison are men, but the women since they're most likely to be primary caregivers for children, we really want to look at their needs in a separate way. So we've formed this women's reentry services initiative to look at

-- doing a literature review and partnership with sam houston state university, we're doing local data look and some surveys of women in prison to try to figure out what's going on. Especially for the women coming back to travis county. So that we can inform local stakeholders about what those needs are and how different they may be than the needs of men returning to the community. And then we're also doing some community service. For example, this weekend I'll be at the austin energy resource fair. We'll have a reentry round table booth, we'll be giving out travis county resource guides for ex-

offenders, also recruiting members who might be formerly incarcerated to join our ex-offenders council, which is our subcommittee of formerly incarcerated persons who go and speak and advocate and try to help each other up. So our target focus for fy 2015 is going to be on employment, housing, behavioral health. Those are our main goals in our strategic plan. We are going to be hosting a state-wide reentry conference, that's a partnership with travis county criminal justice planning as well as goodwill, texas criminal justice coalition, tiffa and some other organizations. Like I said we're working with echo on the coordinated assessment implementation, we're hosting an employment forum. I wanted to tell you guys a little bit more about that. The u.T. Opportunity center as well as the u.T. Law school are partnering with the reentry round table to put on a forum on november 14th, FROM 1:00 TO 4:00, It's going to be on criminal records and employment. Maurice [indiscernible] of the national employment law project is going to be coming to speak on ban the box for public and private employers. And I know the city has been a real leader in ban the box, so that might be interesting to you guys. We are readvising our bylaws that are now 10 years old, our organizational structure, going to more of a standing committee instructor on to more project based, ad hoc, as things come up as our goals call for, community needs arise, in that process, I think that you guys did a proclamation for jerry how whoretired recently. We're going to be hiring staff support to replace jerry houchins roll, that is what the city funds help us do. Here's the information, our website, and my contact information should you need any further information. Do you guys have any questions for me?

[05:52:26]

>> Mayor Leffingwell: Questions, councilmember morrison?

>> Morrison: Thank you for your work. Those numbers are really compelling and, you know, we're in the process of doing social service redoing social service contracts, you know. So it was a good reminder. I have a couple of questions. One, I was looking at the planning councilmembers that you have listed and on the slide I see that you have goodwill. I'm not priced to see them there. I was -- I'm not surprised, I was a little surprised workforce solutions isn't there. Have they been involved in some of the discussions?

>> Actually, workforce solutions was an original funder of the reentry round table. They haven't had a representative recently, but I think they may have early on in the beginning. That's something we can definitely look into and revisit.

>> Morrison: I think that would be interesting. Over the past three years they've had a very successful collaborative with lots of I think 16 other agencies and it just seems, including, for instance, many that -- that work on the issues that you've raised. So it seems that it would be real helpful to -- to make sure that they are tied into the

--

>> sure.

>> Morrison: Then I was interested you mentioned on the activity slide that you were working on a report card.

>> Uh-huh.

>> Is that going to be sort of a communities report card or what do you envision there?

>> Well, it's finished. The reentry report card. It's kind of just a look at local data around reentry and

kind of what's

-- what's happening and what's not happening. It's very specific to reentry, but it's very localized and so it's finished and we're about to put it up on the website.

>> Morrison: Okay. It sounds

-- it's interesting. I'm thinking about the canned dashboard that's been in place I think for almost five years now. I know we have some maybe related data on that. Are you familiar, do we have anything specifically on ex-offenders on the dashboard? Is your report card going to sort of tie into that at all?

>> I think that C.A.N. Used to have a

-- have an FAQ specifically around reentry, but I actually don't know. Dave, do you know? The answer to that? No?

[05:54:33]

>> I guess we don't know the answer to that right now.

>> Morrison: Especially if you are doing a report card, you're going to be watching trends and all, I think that, you know, the dashboard has anybody 16 relatively high level, it doesn't fit, you know

-- it doesn't include lots of data that you would want to see. But then there's the ability to sort of dive deeper into many of them and it sounds like it would be good to have some cross links there to

-- to

-- especially to watch the trends and

-- I think you mentioned the trends are that

-- that we saw one trend and that is that folks ex-offenders are moving farther out away from the city, which is probably part of it is affordability afraid --affordability for one thing. What about numbers in terms of our area?

>> In terms of the city?

>> Morrison: In terms of the city and the county and in terms of do we have more and more and I apologize if you actually went over that number. In terms of the absolute number of folks that are ex-offenders.

>> In terms of like releases?

>> Uh-huh.

>> Let me see. The data supplied with the local numbers we have like 2700 releases from prison and that was

-- that was probably 2012 data. I think that it probably doesn't

-- let's see. 2800 on parole and 16,000 on probation were the numbers from that slide. And I don't think that

-- that what that doesn't tell you is the folks that are leaving the Travis State Jail in East Austin that are coming out on a flat sentence, so they're not going to be on parole or probation, it's a lot harder to capture that. But a lot of

-- when I was working out there, 50% of them were homeless and the homeless guys released from the Travis State Jail get dropped off downtown right there at the Salvation Army Arch area, that's been an issue ongoing, we have made progress in, stepped back, back and forth. I think that's a pretty major issue for downtown Austin. And for those

-- those folks who when you leave on parole, you have at least have someone to check in with, somewhere you are supposed to be, also a gate check, you walk out with a check or a bus pass or something. But when you leave the travis state jail, you get dropped off in downtown austin as a homeless person, no gate check, no probation officer, not even a social worker or a case manager. It's really a high risk population for that reason and with very high recidivism rates.

[05:57:13]

>> Morrison: You mentioned that echo is part of your discussions.

>> We are collaborating with them on housing work, trying to integrate because we see them as a leader, we want to support the coordinated assessment efforts and kind of have our voice at the table in terms of let's keep reminding that criminal history is an issue for a lot of folks that are chronically homeless, we just wants to kind of integrate that work.

>> Morrison: Thank you for your work. It's really important and I appreciate that you come back every year and reminds us all of that work.

>> Thank you so much for having me.

>> Spelman: I am not particularly

-- I am particularly happy about the look that you took a look at washington state instead of public policy numbers, which collated a lot of places for what really works and what doesn't. I've

-- I'm actually surprised by the numbers, I haven't looked at them in quite a while. But with a number like every dollar spent on employment training you get \$44 back, every dollar spent on drug treatment in prison you get \$29 back. It's hard not to justify spending more money on drug treatment an prison and job training outside in the real world. Part of the economics of government solution is that you keep spending up to the point in which the dollars spent on job training, the dollars spent in prison, the dollars spent on cognitive behavioral therapy, so on they are even, the presumption is the first few dollars are going to be most valuable, flat over time. This is based on average results for programs of this kind all over the country. I wonder if you can give me a sense for whether or not there would need to be any

-- what we would need to do to transfer these numbers to our own experience here. If we spend another dollar on employment training for ex-offenders, would we get \$44 back in return.

>> I guess I don't really know the answer to that.

[05:59:14]

>> I was asking a hard question on purpose. I didn't think that you knew the answer. But I wondered whether or not it was worth the trouble to pursue that.

>> Well, yes, I think would be worth.

>> Spelman: Let me tell you why. Because we spent some money on job training now. Presumably we're getting pretty good returns from it. That's why we're spending the money that we're getting. At the margin, I think the case can be made particularly for ex-offenders or other very difficult populations, spending more money on job training will return something like \$45 even to us. Up to some point. And what

-- what's the point of scale we're talking about? Should we have another 100 slots, another thousand slots, how much money should we be talking about spending if we really want to get the maximum return we can reasonably get.

>> Right. I definitely think that's worth looking at because also there isn't really

-- like if you are looking at specifically employment and job training, you're going to probably go to goodwill as the go to provider because they have identified ex-offenders as a priority population. But other than goodwill, there isn't really a non-profit that's saying this is our focus, this is what we do.

There are lots of

-- of agencies trying to address the issues that are affecting this population, but nobody who is really going into the jails and prisons and doing the work. And then

-- then following those folks out into the community, that's a really big missing piece in our social services pie. I think. So I do think it would be worth looking at with that data and applying it to local data and trying to figure out what is our capacity here, what are the non-profits doing, what do the social service contracts look like, are they being inclusive of criminal history folks or could they develop other programs that would be.

>> I would bet, for example, I don't want to single out goodwill, but other than

-- I remember the name easily if I were goodwill I would find it easier for me to do job training of people that are easier populations than ex-offenders. The social gains would probably be lower from a lot of the other clients that they might be able to take. But it's a whole lot easier for me to operate a program if I'm dealing with people that are going to be easier to train.

[06:01:23]

>> That's true across the board for sure. Not just on goodwill, because goodwill is doing an awesome job of being a leader right now in this area, but I mean 10 years ago, they were saying no felonies, we won't take anybody with a felony. This has changed a lot, partly I think because of the efforts of the reentry round table, really bring it to the forefront in saying this is a population we cannot ignore because of public safety, because of ethics, because these are people that are members of our community in great numbers. But there are a lot of service providers who I think are going to say well this person isn't going to be a good fit for our program, this person isn't going to be successful in our program, so we're not even going to bother because it's so challenging, they are so difficult to serve. But the bang for your buck really comes when you are serving the highest risk in terms of benefit, cost benefit analysis and safety to the community. Not high risk in terms of high violence, but high risk in terms of likelihood to recidiate.

>> Spelman: What all this seems to be getting at, if you don't do anything to help anybody out, we are going to have to see them again and again. If we can do something to change the pattern, we don't have to change them again, we get a productive member of society to help us out. I need to point out two things, this is not going to be a surprise to anybody on the dais. If we get a

-- for every dollar we spend on job training, we get \$45. For every dollar we spend on cognitive behavior therapy we get \$26 back. We are not really good at spending as much training on job training and cognitive behavioral therapy as perhaps we ought to be. For every dollar we spent on [indiscernible] we get a benefit of \$6. We are really good at spending that dollar on police and get back that benefit. Seems

to me that we may want to find some way of reworking our politics so that it is political advantageous for us to spend the money in the places where it is most valuable and not places where it is not marginal, it's not margin g

-- marginal at all, but I could quibble with the number a little bit. Still valuable to spend money on police work. We're spending a lot of money on police work. Not anywhere near on probation state-wide, not anywhere near that kind of money on job training or on other things on this list. One last points I want to ask you about, Laura. That is that as I remember a couple of issues are not on this list are very important problems for ex-offenders, housing and health care. And they are not on the list because it's very difficult to do evaluations to the effect of housing and health care on ex-offender populations or anybody else, not a program with a limit on it the same way that the cognitive behavioral therapy is. Do you have a sense for how important housing and health care are spending additional amounts on housing and health care relative to the rest of these things?

[06:04:04]

>> Yeah. I would think the housing thing is

-- is extremely urgent and

-- in this community give very much the affordability issues. From my advantage point at Travis County Health and Human Services, we have started

-- we're seeing different clients in our offices now. We're seeing more and more individual class folks coming in. Not even being able to make ends meet, so if you walk out the gates with a felony conviction and there's nowhere for you to represent or get hired, the landlords in Austin are such that why would they represent to a felon when they have 15 people in line behind them that don't have a felony that can barely afford it to begin with. I think that's a critical issue. Permanent supportive housing issue is key because so maybe of these folks have multiple barriers, it's not just a felony, it's multiple felonies. It's -- it's chronic homelessness, chronic addiction, chronic health care issues. Physical disabilities, other disabilities related to life style, living on the streets for years and years and not having access to health care. All of that is so, so, connected. That the

-- the permanent supportive housing thing is so important so we've really pushed that to the top of our priority list in advocating for the permanent supportive housing to be housing first and to have local barriers. Just recently I worked on the independent review team for the continuum of care funding for the H.U.D. funded agencies and that was a continuous question that I was the one asking repeatedly what are your criminal history screening policies, what do they look like. But be specific, not just well we'll see what

-- who comes in the door. But what are the convictions that are not allowed. Because we need to know that. Social workers need to know that, people in the community working as advocates need to know that. It's vague, not transparent, not always fair because of the disparate impact on minority population, one in three black men in Texas are under supervision of the Texas Department of Criminal Justice. It's not fair. And we have to figure out a way to make it fair. The housing thing is critical because without housing you can't really get stable in any other capacity.

[06:06:09]

>> Spelman: Housing is primary and would it be fair to say housing kind of trumps everything else. If we complaint get housing, the

-- if we can't get housing the rest will not do that much good. If we can get housing for ex-offenders, the rest of the stuff has an opportunity to kick in and be valuable.

>> Absolutely.

>> Spelman: Thanks very much. Appreciate your help.

>> Thank you.

>> Mayor Leffingwell: Okay. Thank you. We'll go now to our citizens communication, first speaker is jere locke, generation plan and climate.

>> First I want to thank all of you that voted for the resolution on fayette. I think that's a real important step forward. So thank you about that. What I'm going to say is a little bit of follow-up of what I said last week. And I

-- I said that there were a lot of holly communities across south texas and

-- in the shale and meaning that there are huge health impacts on people living near fracking. I'm going to send you information, but I'll give you a couple of highlights. Benzene, [indiscernible], are all being pumped into the air along with a lot of carcinogens. And people live near those fracking sites. If not right next door to those fracking sites. Congenital heart defects in newborns go up 30% if there are 125 wells within a mile, that's fairly common in the shale. So this is maybe worse than even what we saw at holly and the tank farms and I think we need to take responsibility for where we get our fuels. I will sends you more information, academic studies, those sorts of things, I hope you have an opportunity to look at it. The second thing, last week I mentioned about austin energy, they were only considering emissions within the city. And most of the emissions of gas in the life cycle, from the frack, the storage, the transportation. The other thing that I didn't understand at that point but I do at this point is the city has been completely underestimating methane. The effects of methane and how you do it is over 20 years, methane is 86 times more potent than c o<sub>2</sub>, over 20 years. Over 100 years, it's only 30 times more potent than c o<sub>2</sub>. Still a lot, but a lot less than 86. All of your calculations in the city about greenhouse gases have methane. At the 100 year rate

-- figure, not at the 20 year figure. And

-- and what we do in the next 10, 15 years during that 20 year figure is all important. 100 years makes no difference. So I really think that I'll send the information about that, but I think you need to take a real good look at those basic figures that your new climate protection plan will be based on. Thank you.

[06:09:38]

>> Next we have derrick norris, sylvia servin.

>> Hello, I'm here again, I'm going to start with a joke and end with a joke. What did the cat lawyer say when he lost the case? You've got to be kitten me. How much does a polar bear weigh? Enough to break the ice. Now to business. I don't like to complain unless I have a good reason and in this case I do. It's about the receptionist. Oh, I'm sorry, her title is administrative specialist. Well, last time she failed to tell me that the city council meetings were being held over here instead of at city hall. She had two opportunities to tell me before the october 2nd meeting and then a third and fourth before this



meeting. But she did not. I didn't appreciate it. She could have easily told me. I happen to ride the bus on october 2nd because of insufficient parkin I got off at fourth and lavaca, walked down about three blocks to city hall. After going through security, noticing there wasn't a meeting, I asked security about the meeting, he said oh, it's being held at 700 lavaca. Grabbed my stuff, ran seven blocks up, I'm lucky I barely made it in time. The other two people accompanying me did not make it in time. I'm sorry I'm an outlined dinosaur and don't have a computer and still using my dumb phone. That is only good for making calls. Also I have to do all the work and couldn't look up the information. She assumed I had a smart phone. I feel it would be better if you had a computer just program it to be nice. She may do other jobs well, but when it comes to this, an automated service would be better to tell people when and where the meetings are being held. Now to the real reason I'm here. How do you keep the elderly cool? Build them a swimming pool, keep the ladies cool from hot flashes? Build them a swimming pool. This swimming pool needs to be for the senior citizens only. It is not a good mix between the elderly and children or teenagers. I'm not jiving you. We really need a pool. It needs to be a pretty big one because there are a lot of us. Sock it to us give us the pool. Can you dig it? Now to even more business. I've complained to 311 about the road on montopolis and oltorf. Please check it out. If I were to go over there with a jackhammer, would someone take notice? Okay. Enough business. I never wanted to believe that my dad was stealing from his job as a road worker, but when I got home all of the signs were there. That's one of the jokes. What does city council do when someone requests something from them? Anyone? They say next. Or read the next name. I keep reading jokes until my time is up. I once worked at a fire hydrant factory. You couldn't park anywhere near it. What do you call a fake noodle? Impasta, a termite with asks is the bartender here. Two guys who stole a calendar, they both got six months.

[06:12:57]

>> Cole: Thank you. All right. Councilmember morrison?

>> Morrison: Excuse me, ms. Servin, ms. Sevrin, I wanted to comment, I wanted to let you know that -- that I appreciate your advocacy for a pool for seniors. We did -- we do have a pool that's open for the first time all year round.

>> Stacy?

>> Barthomew, it's open on weekdays from 2:00 to 7:00, I bet if you go those hours there will be very few teenagers or other people there, I just wanted to give you that information to give it a try.

>> Well, we could use that temporarily, but eventually we would like one for seniors only. Like I said, it's not [indiscernible] children could arrive at any time, teenagers could arrive any time. It's time, the seniors have paid their taxes all their life and the children are benefiting. So

--

>> Morrison: Thank you, appreciate your interest.

>> Thank you for speaking up.

>> Thank you. Next we have linda greene. And the title please? Of my speech? 10 fluoride facts which austin city council is ignorant of is your title.

>> Yes. I should have said 10 fluoride facts which austin city council is willfully ignorant of. Ignorant meaning ignoring deliberately for the past six years these 10 facts, so I'm hoping maybe a color flier will

induce you to pay attention. So this was produced fluoride free action and members from the fluoride action network have been coming to you for six years. This flier was produced by one of the lawyers at fluoride action network. And so I would like to just reiterate what you have known for six years and longer, probably. Number 1, most developed countries do not fluoridate their water, western europe only 97%, 97% do not drink fluoridated water. These are developed countries that know better. Fact 2, fluoridated countries do not have less tooth decay than non-fluoridated countries.

[06:15:21]

Fact 3: Fluoride affects many tissues in the body besides your teeth. Councilmember riley we have thyroid disease, affects your thyroid gland, pineal gland, your brain, ingesting fluoride act cumulates half whatever you ingest. Fact 4, fluoridization is not a natural process. You are adding a hazardous toxic waste to our water and calling it fluoridization. It's not a natural process. Fact 5, over 40% of our american teenagers should visible signs of fluoride overexposure. They have dental fluorosis. If they have outward signs, damage to their teeth, most likely they have thyroid damage and other soft tissue damage. Fact 6, for infants fluoridated water provides no benefits, only risks. And yet here we have nestle and other companies producing fluoridated water for infants. There's currently a lawsuit against both nestle and gerber for their fluoridated baby formula and baby bottle tooth decay is exploding. So there is no good fluoride for infants. Fact 7 fluoride supplements have never ever been approved by the f.d.a. The food and drug administration has never acknowledged that there's any kind of requirement for fluoride supplements, tablets or any kind of fluoride. 8, fluoride is the only medicine added to the public water supply. A medicine. And not even a safe medicine, but a hazardous phosphate fertilizer waste product. Fact 9, swallowing fluoride provides little benefit to the teeth, it has to be ingested and fact 10 disadvantaged communities

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[06:17:26]

>> Cole: Your time is up.

>> Most har by fluoride.

>> Mr. Danny miller, mr. Danny miller.

>> My name is danny miller. I live at 1103 south sixth street. I've been down there since about 1976, spent some time out of town, but I own property down there for some 38 years. I'm here to speak essentially about quality of life and how it's slipped or fallen like a rock. In this town. And a big part of it comes from our neighborhoods and the 30 something events per year that happen on

-- on the shores at auditorium shores, how that impacts our community. I'm in the bouldin creeks neighborhood, neighborhood association, I'm a founding member of that association from

-- from its very inception. And most importantly, I'm going to enter he to acl at zilker park and what it does to not only my neighborhood but the poor people at zilker. So I'm going to entertain you by reading from the austin american-statesman issue of october 3rd of this year, mr. Randolph howard published this very short poignant and to the point

-- comment. One of the best times to be outside in austin is during the fall. And one of the best places to

spend time is zilker park. Which has been sold to austin city limits music festival, a for-profit endeavor, that benefits the few at the expense of the greater citizenry of austin. Last year, the park was closed for four months. I hope that people will start to notice just how long the festival is imposing and taking over our park for its own enrichment. There are many other possible venues where this could be staged, but until people speak up, the bully will prevail. And I'm here to speak up and against this acl thing and what it's doing to our neighborhood. I'm not

-- I might add this also means that barton springs is closed, we're the citizens of this city! And we're not being very well addressed or treated. Austin has been well sold by austin city government. You have over 100, 150 people a day moving here. It's oversold. You have sold more tickets than there are seats to sit in. You have the fourth worst traffic in the nation as it's published and then yet we have all of these 30 events at auditorium shores, acl, south-by-southwest, that just makes it terrible in the downtown area. You've got some great venues that were built and one of the comments behind mr. Howard's remark, comes

-- comes from robin orleski

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[06:20:47]

>> your time is up.

>> Thank you for your time.

>> Cole: John woodley. John woodley. Okay.

>> Hello. Councilmembers. Mayor, mayor pro tem, city managers. I have a need to stand before you to publicly address some discrimination by the city of austin and its counterparts. My name is john woodley. I'm deaf and I'm an advocate for disability access. As you can see, I have a cart service here so I can see what's being said. This is actually the first meeting that they have provided it here. Because

-- because the caption service doesn't work because it scrolls off the screen too quickly. Let's see ... I've been making a

-- requests all summer for disability access and while attending a bunch of city public meetings. And the human resources and ada coordinators were not providing me my requested accommodation. And the requested accommodation that I typically ask for are in person verbatim court reporters with a display, remote might work if no technical issues, but must be able to display the full text, allow scroll back and closed captioning doesn't work because of the

-- doesn't allow scrolling back and it's only two lines long. And

-- city council meeting I've asked for tablet so that will allow me to be a little more mobile and allow me to read the transcript in real-time. The

-- you also have to have internet access for this service and if I need to make a phone call, since this building and other buildings in the city of austin do not have ada accessible public phones, even if they do have public phones available for other citizens. Extra time if needed. Assigned seating, at the

-- set the table display on, verbatim transcript of the ada notes preferably within 24 hours has been a big issue because I need to be able to do my homework. Follow-up at other meetings. So that I can take full notes. And I

-- the ada coordinator's office and human resources office have all been saying that meeting minutes are

equally effective as having this transcript. And they are not. Meeting minutes are typically titles of things being discussed and have no details about the conversation. Meeting summaries might have a little bit more detail, but typically only cover what was

-- the topic covered in the meeting minutes. But they tend to be more biased and don't include other information.

[06:24:13]

[Buzzer sounding]

>> Cole: Thank you. Thank you, mr. Woodley. Thank you, mr. Woodley. Next we have paul robbins. Councilmember martinez?

>> Martinez: Because mr. Woodley is deaf, he has to watch the screen and wait for

-- for the text to appear. So that he knows what he is

-- what we are saying. And so that's why he

-- he doesn't hear a beep to know that his time is up. He has

-- it has to be verbalized so it can come across his screen.

>> Cole: Thank you, councilmember martinez, mr. Woodley, your time is finished.

>> Okay.

>> Cole: Thank you for your comments.

>> Okay. Thank you.

>> Cole: Next, mr. Paul robbins.

>> Good afternoon. I want to take you back to AUGUST 28th, WHEN I WAS The lone person to question item 158. This was a resolution sponsored by councilmember tovo to set up a committee to come up with new ways to serve austin's low and moderate income sector, with energy efficiency programs. At this meeting, she stated that the resolution integrated all my suggestions to improve it. This is not correct. I specifically stated in two separate emails, that including people that make as much 400% of poverty in the definitions of need was wrong. Now, I have a powerpoint slide here which is too tinny to read, but I've also given you all readable, legible copies. Tiny. Here's the quantification of poverty from travis county health and human services department. It defines a family of four at 200 percent of poverty as making over \$47,000 a year. The same family at 400% of poverty would make \$95,000 a year. This is on its face absurd. In most places in the world, you will never have as much money as you need to serve low and moderate income people. So why would this council intentionally divert attention and scarce financial resources to families that do not need it. The answer is, once again, that you are taking advice from the very flawed and undocumented generation task force report. In fact, I believe the task force actually voted to remove the \$95,000 income threshold referenced in this resolution, but for some inapplicable reason

-- inexplicable reason did not remove the wording. Your committee, given who is on it, lacks balance.

Instead of coming up with real world solutions to help low and moderate income people, I am apprehensive that the majority of this committee will probably recommend throwing money at problems to a new council that had no buy-in, in the process, of appointments anyway. One last thing, I have not taken a stand on any council race, councilmember tovo and in the past councilmember riley, my criticisms of your resolutions are not based on who I might favor to win this race in november. Good

afternoon.

[06:27:48]

>> Cole: Thank you, mr. Robbins. [Applause]

>> carolann rose kennedy. Carolann rose kennedy. I haven't seen her. Carols leon. Thank you, mayor pro tem cole. Carols leon, I'm here on OCTOBER 15th, 2014 TO Speak what's right. First of all, thank you for letting me fight for life. Second, condemn trails were concern

-- chem trails were observed in austin, stop the spray. Third, democratic leader obama said "make no mistake, these policies are on the ballot every single one of them." So each and every democrat running for office and local county and state elections nationwide this november are tightly lassoed to benghazi, abortion where whack jobs like wendy davis murder in cold blood the innocent, helpless, dependent human life they are supposed to birth and nurture. Bam care, including its forced choices significantly higher premiums and two billion spent, b billion for the website. That 2 billion is significant because obama care should not even exist. Freeing that money for better medical ues, like stopping ebola in africa to save african lives there and prevent american infections and deaths here. According to jim McElton of today's online washington times, the center for disease control told the incoming obama administration in 2008 that it who establish 18 regional disease detection centers around the world to adequately safeguard the u.S. From emerging health threats like ebola. But six years later, the cdc still has only 10 centers and none of them operates in the western african region hardest hit by the deadly virus." The existing centers have already proven their effectiveness and impact on detecting and responding to outbreaks, including avian influenza, [indiscernible] toxin poisoning,

[06:30:11]

[indiscernible] valley fever, ebola and [indiscernible] virus outbreaks." At the time the cdc had five centers set up, only added five more, that's the 13 that the agency had proposed to complete the network and properly protect the nation. Therefore, not only did obama democrats unnecessarily allow ebola to thrive in africa and kill thousands of africans, but they continue allowing ebola region africans to supply into america to infect and kill us right now. Let's protect ourselves from them and rebuild our republic and lead righteously following god's word by voting them all out in november. I pray for our nation's healing and salvation. In jesus name I pray, amen, thank you mayor pro tem cole.

>> Cole: You're welcome.

>> Mayor Leffingwell: Amen. The council will now go into closed session to take up three items

--

>> Cole: One more.

>> Mayor Leffingwell: One more.

>> Cole: Rae nadler-olenick.

>> Mayor Leffingwell: Sorry, go ahead. My timer

-- are you setting the timer, it doesn't seem to be working up here.

>> Not working right now, we are doing it manually.

>> Okay.

>> Okay. Today is going to be kind of a rerun, I'm going to attempt to play a video clip that -- that I tried to play at the last meeting. And the sound failed. But let's see if it works this time. The speaker is a dentist who a couple of years ago led the dental cheerleading squad here in Austin city council chambers and he assured us all that it was perfectly safe. Let's hear what he had to say on a different occasion. Can you please roll that? If the sound doesn't work ...

>> [No audio].

[06:32:19]

>> Okay. I think the verdict is in, the sound doesn't work in this room. So I'll just speak off the cuff very briefly. On another subject. A couple of months ago, the parents of a little girl contacted me. She has a rare form of kidney cancer and she has only one kidney. So her little system is working on that and the parents wanted to know if

-- if what they could do to

-- to stop fluoroideization, of course I told them the best thing would be to come and speak and maybe even bring the little girl. They didn't do that. I don't blame them for not wanting to give her exposure. She's about four years old. The hospital personnel did not inform that is to say her physicians did not inform the parents that fluoridated water is contraindicated for anybody with a kidney problem. They didn't

-- they didn't try to safeguard that child. So it's not reliable that

-- that physicians will tell. Sometimes they will, sometimes they won't. It was another hospital member who tipped them off. And I just want to say this is a toddler. Being

-- being exposed to the dangers of fluoridated water. I know that some people up at the dais have toddlers, also. It occurs to some of us to wonder whether their toddlers are drinking fluoridated water. That is a question for another time. And that's all that I'll say for today. Except that I hope the sound system gets fixed. Thank you.

[06:34:22]

[Applause]

>> Mayor Leffingwell: Thank you. So that's all of the speakers, council will go into closed session to take up three items pursuant to section 551.072 of the government code, the council will discuss the following real estate property item, item 7, discuss the real property acquisition of approximately 75.1 acres at the intersection of Bull Creek and 45th Street. And then

-- [buzzer sounding]

-- and then pursuant to section 551.071 of the government code the council will consult with legal counsel regarding the following items, item 7 legal issues related to the acquisition of approximately 75.1 acres at the intersection of Bull Creek and 45th Street and item 44, legal issues related to the Waller Creek Tunnel project, noting that items 41, 42 and 43 have been withdrawn. Without objection, the council will now go into executive session. [Executive session [this captioning stream will be turned off until council returns from executive session].

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[09:40:57]

>> Mayor Leffingwell: We are out of closed session. In closed session we took up and discussed items 7 and 44. We'll go ahead with our consent zoning cases.

>> Afternoon, mayor, councilmembers, I'm jerry russ taurean with the planning and review department. For the the two p.M. Zoning for which the public hearing is closed the first case I can offer is item 45,

c14-2014-0082. The stokes ranch located at 11900 buckner road this is a request from single family residence-standard lot (sf-2) district zoning and development reserve (dr) district zoning to community commercial-mixed use-conditional overlay (gr-mu-co) combining district zoning for tract 1 and townhouse & condominium residence (sf-6-co) combining district zoning for tract 2. This is ready for approval on second and third readings. The next case is item 46. C14-2014-0095. 11835 jollyville road from limited office (lo) district zoning, family residence (sf-3) district and community commercial (gr) district zoning to community commercial-mixed use-conditional overlay (gr-mu-co) combining district zoning. This is ready for approval on second and third readings. Item 47 is c14-2014-0103. Radio coffee and bar located at 4204 manchaca road and 2008 fort view road this is a request from neighborhood commercial-mixed use-conditional overlay (lr-mu-co) combining district zoning to commercial-liquor sales-mixed use-conditional overlay (cs-1-mu-co) combining district zoning, this is ready for approval on second and third readings. Item 48 is case with conditions. MI land holdings, located on 9101-9201 south ih 35 service road northbound from interim-rural residence (i-rr) district zoning and general commercial services-conditional overlay

[09:42:57]

(cs-co) combining district zoning to multi-family residence-moderate-high density-conditional overlay (mf-4-co) combining district zoning. This is ready for approval on second and third readings. Next I have for the cases in which the public hearing is still open on consent is item 49, npa-2014-0011.01. Mdc programs annex located at 1001 east 50th street and 4915 harmon ave from single family to office land use. , Item 50, c14-2014-0028. 1001 east 50th street and 4915 harmon avenue and staff is requesting a postponement also on this to november 6. Items 51 and 56 the korean neighborhood church, I understand we have a request from councilmember morrison to set these for a time certain of 6:30 p.M. Item 53 will be a postponement. C14-2014-0072. From family residence-neighborhood plan (sf-3-np) combining district zoning to single-family residence-small lot-neighborhood plan (sf-4a-np) combining district zoning. This is ready for concept approval on all three readings.

>> Mayor Leffingwell: Jerry, did you say 53 was a discussion postponement?

>> That's correct.

>> Item 55, from family this is a staff postponement request to november 6th. Item 56 c14-2014-0114. Located at 11712 north lamar this also has a staff postponement request to november 6th. Item 57, c14-2014-0121. Whole cats south austin, located at 9200-9500 south ih-35 service road northbound this is a request from single family residence-standard lot

[09:45:02]

(sf-2) district zoning to general commercial services-conditional overlay (cs-co) combining district zoning. The planning commission recommends the request and this is ready for approval on all three readings. Item 58 is case c14-2014-0128. The vistas at western hills located at 2910 west william cannon drive staff is requesting a postponement of this case to november 20th. And item 59 I understand we have a request from mayor pro tem cole to set this for a time certificate of 7:00 p.M. That concludes the consent and zoning cases.



>> Mayor Leffingwell: Consent agenda is to approve items 45, 46, 47 and 48 on second and third readings. To postpone item 49 until november 6. Postpone item 50 until november 6. To set item 51 and 52 for a 6:30 p.M. Time certain. To close the public hearing and approve on all three readings item 54. Postpone item 55 and 56 until november six. To close the public hearing and approve on all three readings items 57. Postpone item 48 until november 20th.

>> That's right. And item 59 will be a time certain of 7:00 p.M.

>> Mayor Leffingwell: Item 59 is set for can p.M. I'll entertain a motion to approve the consent agenda. Mayor pro tem so moves. Seconded by councilmember morrison. In favor say aye. Opposed say no. It passes on a vote of six to zero with councilmember spelman off the dais. He's out there somewhere? Okay. The clerk will amend that to say it's approved on a vote of seven to zero. Okay. I believe we're going to go back to our consent agenda now.

[09:47:18]

[ ] and I think item 33 is ready. Councilmember morrison. Councilmember spelman.

>> Spelman: Councilmember morrison has an amendment, and if you will give me a moment I will come up with my own small amendment. I move approval of item 33 with the following amendment, that the second to last resolved, take out the words american bar association's model and replace them with texas disciplinary so that whatever agreement the manager and the auditor come up with must be consistent with both the city charter and the texas disciplinary rules of professional conduct. That's my motion.

>> Mayor Leffingwell: So that's the  
-- replacing the aba with the tdb.

>> Spelman: That's correct.

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

>> Second.

>> Mayor Leffingwell: Seconded by mayor pro tem. Councilmember morrison?

>> Morrison: Thanks, mayor. I would like to make an amendment to incorporate the ethics review commission explicitly. And within the time frame they have a meeting I think on monday on we're talking about posting something very soon for this meeting. So on page 11 the very first be it resolved I'd like to add a phrase in the middle of it. Be it resolved that the city manager shall process the amendments and present them to, and then what I'll do is add language right here, so present them to the ethics review commission at their october 20, 2014, and to council for consideration on or before the november 20, 2014.

>> Mayor Leffingwell: Is that accepted by the maker and the second?

>> Spelman: Let me ask a question first. The

-- all of the amendments that may be necessary after conversations between our legal staff and the city audit irrelevant will not be ready by

-- city auditor will not be ready by monday. So what would be presented to the ethics review commission would be this version of it. Would that be consistent with your understanding?

[09:49:32]

>> That's be my understanding.

>> If that's your understanding that would be fine with me.

>> Mayor Leffingwell: Okay. They can always come up with stuff on their own anyway. Mayor pro tem, you accept? So that's incorporated in the motion.

>> Morrison: And mayor? I would like to note that this is going to come back to us theoretically 20 november, and I'm wondering if that would

-- if the ethics review commission meets on the third monday of every month, which it

-- that it would also give them opportunity, should they desire, but I don't think we need to, to look at it in november also before it comes back. But we do have staff here. Could I ask about that, if that's

--

>> cynthia tom with the attorney's office and I'm the staff liaison with the ethics review commission.

They have regularly quarterly meetings. Right now they have a special called meeting scheduled for monday, october 20th. They have a regular meeting, their last scheduled regular meeting of the year for october 28th. They could theoretically possibly call an additional special called meeting in november if need be. They may be having additional special called meetings to respond to complaints that may be filed that they have to hear.

>> Morrison: So it sounds like there is flexibility should they be

-- this will be a very early version. They'll basically be looking at the resolution, but certainly if they wanted to revisit it as the work went along, they would be able to weigh in before it comes back to us. So I think that could be well understood. Thank you.

>> You're welcome.

>> Mayor Leffingwell: Those in favor of the motion say aye? Opposed say no. It passes on a vote of seven to zero. Are we ready with item 7? We'll put that on the table for later. And that brings us to item 38. Councilmember riley.

[09:51:46]

>> Riley: Thanks, mayor. Item 38 is an item we've talked about at some length before relating to transportation network companies. It is up for third reading now. I would like to move approval of the item on third reading and then I have two or three amendments I would like to offer.

>> Mayor Leffingwell: Motion by councilmember riley to approve on third reading. Seconded by the mayor pro tem. Councilmember riley.

>> Riley: The first issue is with regard to service at the airport. We've heard from

-- I believe it was the airport representative on the stakeholder working group about

-- raising concerns about service at the airport. What we wanted to make clear is that there's nothing in this ordinance that was to precede other provisions of the code. And it's been specifically section 13-2-33 of our city code provides that anyone who wants to provide ground transportation service to or from airport must obtain authority to operate at the airport from the director of the department of aviation under chapter 13-1 of the code. So what we expect is that a tnc would need to go and execute a separate agreement with the director of aviation, and that would enable the

-- I'm sorry. I believe yellow copy should be making its way down.

>> Cole: Mayor, I want to ask councilmembers to slow down a little bit and let the amendments make its way down indict as.

-- Down the dais.

>> Riley: So the idea is just that the

-- there would still be

-- the director of aviation would still need to enter into a separate agreement with the tnc and that agreement could set out fees equivalent to the fees that are charged by taxi cabs to make a level playing field and that would have an opportunity to manage the tncs at the airport, the waiting area, pickup area. That could be done with the agreement with the director of aviation. So the amendment that I've passed out is based on something that's been done elsewhere, I believe it was seattle, that says this agreement does not regulate or authorize the operation of tnc's, including vehicles or operators, at the airport. Such separation shall be with the approval of the abia director and under such terms and conditions as the director shall prescribe, including assessment of a fee. So it's just clarifying that otoserve the airport you would need to enter a separate agreement with aviation. And I think that would have been an implication, each without saying this, but this removes any suggestion that we're automatically allowing that just by virtue of this ordinance.

[09:54:35]

>> Mayor Leffingwell: Mayor pro tem, do you september that as friendly?

>> Cole: Yes.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: I guess I have a couple of questions. First I wonder if staff could just give me an overview of what taxis and other vehicles for hire are subject to at the airport. You know, what fees do they pay and where do those fees go and all of that?

>> Good evening, my name is pearla compton, ground transportation manager. What was your question?

>> Morrison: Could you give me an overview of the regulations that vehicles for hire, whether they're taxis or super shuttles or whatever, are subject to at the airport and fees they pay and what those fees go to?

>> Each fees are different. For taxi cabs they're one dollar. Hotels are also a dollar per trip fee. Then we have the limousines, which is 2.50. Charters, which are 2.50. And buses are five dollars.

>> Morrison: And how do we actually collect that money?

>> We actually have an electronic system that

-- it's called an avi system, automated vehicle identification system. And every ground transportation provider has to apply or register their toll tag or a trans responder that we sell with our department or our office, and that keeps track of every ground transportation provider that's at the airport.

>> Morrison: And does that track them as they come in just normally on or do they go into what I know as the taxi line?

>> It works exactly like a toll tag readers do so we can keep track of every vehicle that enters into the airport just to drop off or if they're going to make a pickup, then there's a certain area which is called the ground transportation

-- it's called gtsa, ground transportation staging area, which all the providers need to go through the staging area prior to going to the lower level or upper level.

[09:57:02]

>> Morrison: So would you foresee any other way than for these tnc drivers, any other way for them to pay a fee besides doing that?

>> At this time, no. They would have to be regulated or actually

-- they would have to register each vehicle in our system. It's very simple, takes five seconds. It's just if you have a toll tag, we have a computer or a system that works with the numbers on the toll tag. So we could enter them if they already have one, or they can purchase one of our tran responder, which is the same thing. It just keeps track of every vehicle that comes into the airport.

>> Morrison: Maybe I misunderstood, but if we don't put this in here, would the ordinance require that they participate in that same system because it's over

-- it applies overall?

>> Riley: If I may, that could be subject to argument. I could see someone arguing that because we passed this ordinance that that's all the rules necessary for a tnc to operate. So this amendment is just simply intended to clarify no, we really need to work with the airport to figure out how we manage the tnc service at the airport.

>> Morrison: And I would imagine the fee

-- that the fee would need to be approved by council. It says there will be an assessment of a fee.

>> Riley: Actually, are the airport fees approved by council? I'm not sure about that.

>> Yes, they are.

>> Riley: Okay.

>> Morrison: So you would envision presumably we wouldn't do anything different, but they would all have to register online, they would get a tag that they put on their car and then they would have to go through the staging area and then we would be able to collect a dollar fee every time. Something like that.

>> Yes, if that's what the director decides to do. We're still collaborating and making sure

-- we want to make sure that we cover all bases. This is a new company and we've never dealt with tncs before so it's not something we can just jump into. We're still researching.

[09:59:16]

>> Morrison: Okay. This defers authority to the director for the agreement. Are those

-- is that the same

-- so the way it's set up now that council approves how it works or director?

>> The director. The director of aviation.

>> Morrison: Okay. And when would you expect to

-- so would these be part of the tnc agreement before anyone is allowed to be at the airport? This would have to be set up presumably?

>> Riley: I would expect that you would need to have

-- we would need to have a legal framework for the tnc's to operate in austin generally and that's this ordinance does. And like with any ground transportation service providing service at the airport that the details of how you manage that at the airport would be worked out with director of the airport.

>> Morrison: Okay. And just to be clear, until that is worked out, they're not approved to operate at the airport.

>> Riley: That's correct.

>> Morrison: Okay. Thank you.

>> Riley: Okay. So that was accepted as friendly? Okay. A separate issue has arisen related to the requirement of a chauffeur's permit. It's come to my attention that there's been some suggestion that staff would still continue requiring a chauffeur's permit of all tnc drivers even though

-- even though the substance of the permit is actually covered by other provisions of this ordinance. And in particular as I understand it the chauffeur's permit would entail coming down to city hall and showing materials for purposes of background check and going through a background check and getting your chauffeur's permit. And then I also understand there's also a geography test and some driver training.

Those are all covered within the tnc ordinance so it seems to me that requiring all of that separately

-- going through that process separately would be redundant. The drivers would actually be going through two background checks, one through the tnc's subject to audit and then one through the city.

And I don't think that was the intent. So this amendment would simply clarify that we would be

-- that a tnc operator would not require a chauffeur's permit. That

-- it would amend part 3, paragraph a to say a tnc may operate in accordance with the process set forth in this ordinance, waiving the chauffeur's ordinance at 13-2-101 for tnc drivers.

[10:02:07]

>> Mayor Leffingwell: That's proposed as friendly, councilmember?

>> Riley: That's offered as a friendly amendment.

>> Cole: I have a question for councilmember riley. And so this doesn't in any way impact the other background check requirements that are in

--

>> Riley: No, no. All the background check is in there. In fact, a more rigorous background check than we require of taxi drivers.

>> Cole: Yes, mayor.

>> Mayor Leffingwell: So that's incorporated into the motion. Councilmember morrison.

>> Morrison: I just want to clarify one thing you said, that the background check is more rigorous. There are some ways that it's more rigorous. There are other ways that it is not more rigorous. So it's not a clear, easy statement.

>> Riley: Okay. And then the final item that I would like to address relates to insurance. And this was the main reason why we did not pass this on third reading last time because we

-- I was hearing that there were significant issues with the amendment that was made during the council's discussion last time. And so the amendment that I'm passing out would amend part 3, paragraph b 2 to strike the word primary. And this is for purposes of what's known as period one. That period when a driver has the app on, but has not yet accepted a ride. And we've talked about this at

some length. We're not arguing about the insurance that's applicable when a passenger is in the car or when the driver is on the way to pick up the passenger. It's simply during that time when the driver has the app on, but has not yet accepted a ride. And the question is should we

-- what sort of insurance should be required then? Typically in other jurisdictions the ordinances have required only contingent coverage, some time of coverage. It could be personal if it was a personal errand being run or in the event the personal coverage does not apply because it was more of a business trip, then in that event that the company's commercial coverage would apply. The point is you have flexibility there which allows continued

-- the hope is there would be continued innovation within the insurance industry to develop a product, probably to be offered by the personal carriers, so that drivers could have clear coverage within their own personal policies. So this would strike the word primary to take us back to what most jurisdictions have done to simply require the commercial coverage, but not require that it be primary.

[10:04:44]

>> Tovo: Mayor? I have a question for our staff, please. We've received some testimony at our last meeting that suggested there are no other jurisdictions that require primary insurance during this stage of passage. And we had asked you at our work session on tuesday to please look into that and determine if that's in fact true. In looking through some of the various insurance commissioner, most of the states it looks like have an insurance commissioner warning about

-- to tnc drivers about insurance, about checking with their personal insurance cautions that their personal insurance may not renew their policy if they are found to be using their personal vehicle for transport of this type. And so at least one of those did suggest that the driver have a discussion with their insurance company about whether or not the coverage starts at the time of

-- at the time the application is turned on. But in any case, we could asked you to do that research and determine if any other cities have the amendment that we passed successfully at our last session.

>> Carlton thomas, austin transportation department. We are aware that new york requires that the tnc secure a base license, and one of the requirements of that license is that the insurance is

-- the commercial insurance is effective at all times.

>> Tovo: So that is

-- as I understand it, that's even more comprehensive than the amendment that we passed last time, is that right?

>> Correct.

>> Tovo: Okay. So the testimony we received last time saying that there were no other markets in which this was the case, this was a poison pill, there's no way that tnc's could operate for this amendment to stick in appears not to have been the case in new york.

[10:06:48]

>> That is correct.

>> Tovo: Can you talk to us about dallas?

>> Dallas has formal recommendations and it is

-- their position is that during the period where the driver is logged on to the app and prior to accepting a request or a match that the holder provide a level of commercial insurance. And the holder being the tnc.

>>

>> Tovo: So in essence that's what we passed at our last meeting?

>> That's my understanding.

>> Tovo: Except again they were requiring one million dollars' worth of

-- the recommendation as it stands in dallas is one million dollars' worth of primary commercial coverage at all times. This actually provides two different levels of coverage. One for when there's a passenger, one for when the application is turned on. So ours is again less restrictive than what they're contemplating in

--

>> I spoke with the regulators in dallas this morning, and they actually do have a lower level. They do not require one million dollars during the period where the driver is logged on to the app and has not yet accepted a request, but there is the requirement that the company provide the insurance at a lower level.

>> Tovo: How does it compare with what is in the ordinance that was passed on second reading?

>> It's similar to the ordinance that was passed.

>> Tovo: Okay. So it also

-- so the information that we received from you yesterday, you were able to update it. So it is a two-tier coverage like what we contemplated, and the tier for when there's no passenger in the car is similar to what we passed on second reading.

>> That is correct.

>> Tovo: And again, new york already has that in place, the so-called poison pill. Okay. Thank you. I think what we adopted on second reading provides some assurance for the driver that they will be able to continue to use their vehicle to rely on the tnc's commercial insurance and not to have to fall back on their own.

[10:08:54]

>> Mayor Leffingwell: Councilmember riley, are you proposing that as friendly. It's accepted and incorporated. This amendment is incorporated into the ordinance. Councilmember spelman.

>> Spelman: I didn't get your attention quite early enough. Several of us have been kicking around this idea and there are a variety of different ways we could solve this problem. We could do, as new york did, seattle proposed to do, some other people proposed to do, basically making primary insurance required during app on periods and during the entire rest of the transaction. Another way of handling this was proposed by the california legislature, and one of the reasons for looking at the california legislature for guidance is because they spent a much longer period exploring options than we have had a chance to do or insofar as I know any other jurisdiction that has taken this problem on has had a chance to do. And let me pass around some language based on the activities of the california legislature for your consideration on exactly this issue. What the california legislature considered to be a reasonable approach to this is to incorporate the ideas that we've been hearing from both lyft and uber

that at some point the insurance community would produce a new product, an endorsement on personal insurance which would cover tnc related driving. It has not

-- no insurance company that I'm aware of, but lyft, uber and other tncs believe it will be because there will be sufficient demand for it. So the california legislature left open the door for that as a possibility in its dealing with this problem and this is what this does here. This is similar wording to what councilmember riley was proposing as a friendly amendment. There's a small difference. During the time period beginning when tnc is logged on, during the app on period, the same level of insurance would be required, 30, 60, 25. This could be

-- these requirements could be satisfied in any of three ways. First, what I'm going to refer to as tnc insurance maintained by the driver himself or herself. So the driver makes a deal with the insurance company to provide what we will refer to as tnc insurance. There's a definition of that coming up. Alternatively tnc insurance might be maintained by the tnc itself, which is what we've been talking about. This is the commercial insurance which the tnc would provide as a backup in the event that the tnc insurance maintained by the driver or the driver did not maintain his or her own insurance. Or california left open the possibility of a combination of the two. I'm not sure the combination is something which is likely to come up here because the insurance requirements we have here are simply the minimum insurance

-- liability insurance requirements we're making on all drivers. So the combination issue is less likely to be an opportunity, but it may be. Some insurance company may produce a product for less than the minimum to provide that combination as an alternative. Tnc insurance defined as liability insurance policy that specifically covers liabilities arising from driver's use of the vehicle in connection with the tnc's online application platform. So it's a very specific application, very specific definition of what we mean by tnc insurance. This was acceptable to the tnc's in california. It is my understanding that this is acceptable to tnc's that are proposing to operate in austin, texas. And the big difference I think between this and the primary commercial coverage that we enacted as an amendment the first time is that it provides an alternative. It's not only

-- this is not the only way we could meet this. If a product does become available in the insurance market that personal drivers wish to take advantage of, they can take advantage of that by holding this door open, this makes it possible, I'm given to understand, by lyft and uber that they could do business in town. I have a question to ask angela fernandez if I could, mayor.

[10:13:14]

>> Mayor Leffingwell: Sure.

>> Spelman: Rodriguez, my apologies.

>> Me, I'm angela rodriguez from the law department.

>> Spelman: Somebody else. She's a former student. My apologies. I'm given to understand that tnc insurance may not be sufficiently broad a category if we're talking about the insurance maintained by a tnc itself. And that an alternative to construction might be tnc insurance or commercial insurance. I wonder if you could talk about that for a moment.

>> Yes, sir. Because it's such a narrow definition of tnc insurance that we've adopted similar to that exactly the same as that of california, I believe in order to protect the public as I believe you're intending



to do with this, at the addition of the choice of commercial insurance would be beneficial.

>> Spelman: How come?

>> Because if the company was unable to obtain or did not choose to obtain a policy that had a specific rider of specifically tnc operations, then there's a much wider market where they could purchase a commercial insurance policy. And some people believe that it's implied that tnc insurance is necessarily commercial, but I don't believe that's a safe assumption. Spell just is to hold ourselves open to what may be an opportunity it in the future, we don't know how people will interpret tnc insurance downstream, it's safe other to say tnc insurance or commercial in tnc in the draft I've got in front of me.

>> Yes, sir.

>> Spelman: Mayor, my full amendment would be to adopt this language with the in addition of or commercial insurance after transportation network company insurance in 2 b. And I believe this is another way of solving the problem that councilmember riley was trying to solve in his amendment, and I believe that it's an option for both the tnc's and the drivers which is not currently available and I think we solve the problem.

[10:15:20]

>> Mayor Leffingwell: Is that offered as friendly?

>> Spelman: It is offered as friendly.

>> Mayor Leffingwell: Councilmember riley.

>> Riley: To be clear, councilmember spelman, this would allow for the possibility that a driver's own personal coverage would apply during that period?

>> Spelman: Yes, that's correct. As this is written, the only way that the driver's personal coverage would be applicable is if it's the definition of tnc insurance, which it might already at the discretion of the insurance company. The insurance company may consider my personal insurance to be tnc insurance. It might not. I don't know the answer to that question yet until

-- perhaps until I try it or until I ask my insurance company. But if it does then there would be no need for lyft, uber or any subsequent tnc to provide backup insurance. I would know I was covered by my insurance company. If at some future date they required an additional product that was tnc insurance as an additional driver, I could take advantage of that and relieve the tnc of the responsibility of having to pick it up.

>> Riley: Okay. That sounds fine to me, mayor. Yes, it's friendly.

>> Mayor Leffingwell: Mayor pro tem?

>> Cole: Yes, it's friendly. And it's not requiring the driver to purchase the coverage. It's just an option.

>> Spelman: It is an option, that is correct.

>> Mayor Leffingwell: That is incorporated into the motion, basically replacing the previous friendly amendment.

>> Spelman: Mayor, I have one question if I might ask. This is of representatives of lyft and uber and I think those are the only tnc's who are proposing to operate in the austin markets. I have a question of them. As I was walking

-- actually running in to the meeting just a few moments ago I was waving my hands and yelling aye, someone suggested to me that it might be a good idea to make sure that the tnc's informed their drivers

of these options. Is this something which you ordinarily do?

[10:17:21]

>> This is part of our terms of use, part of the terms of use the drivers are informed about what our policy is. We have a copy of our certificate of insurance that's on our website currently. The drivers are aware of what the policy is.

>> Spelman: Okay. So this is something which you would ordinarily do just as good business practice.

>> Right.

>> Spelman: Have you had a chance to take a look at my proposal here?

>> I have briefly. I think

-- I think I've seen it, yes.

>> Spelman: Okay. Theoretically it's the california deal. From your point of view this is something that you guys can live with?

>> Yes.

>> Spelman: Okay. Thank you, ma'am.

>> Riley: Mayor? Ms. You're there, I just wanted to ask you, since there has been some discussion about the new york approach to insurance, is there any difference between the way tnc's are operated in new york that would make the situation different?

>> The new york is a completely different model model. In the new york case it's basically a dispatch system where they're dispatching full time drivers who are not using their personal vehicles. The one exception, there are 60 plus other markets throughout the country where we're using a peer to peer based model where people are thawing their own personal vehicles to drive around on a casual basis and that's the model that is currently being used in austin. So that's the distinction.

>> Riley: Thanks.

>> Spelman: Mayor, if I could ask a question.

>> Mayor Leffingwell: Councilmember spelman has a question

--

>> Spelman: A follow-up for the representative of uber, if I could.

>> Adam [indiscernible] with uber.

>> Spelman: Is your policy similar to the lyft policy that you inform drivers of all these options?

>> Precisely.

>> Spelman: If we were to enact language that would require you to inform drivers of all these options, would that be any skin off your nose?

>> That would be fine with us.

>> Spelman: Thank you, sir.

>> Mayor Leffingwell: No skin off, that means it's okay. [Laughter] councilmember martinez.

>> Martinez: So I actually have such language that I want to add to councilmember councilmember spelman's amendment. His amendment was part 3

-- if there's an extra copy the clerk needs one as well. So this would just add subsection 4 to part 3-b-2. , And all it is is what councilmember spelman was asking about is ensuring that disclosure is provided to the drivers. I'll go ahead and read the language very quickly. Transportation network company shall

disclose in writing to participating drivers as part of its agreement with those drivers the insurance coverage and the limits of liability that the transportation network company provides while the driver uses a vehicle in connection with a transportation network company's online enabled application or platform. A transportation network company shall also disclose in writing to participating drivers as part of its agreement with those drivers that the driver's personal automobile insurance policy may not provide collision or comprehensive coverage for damage to the vehicle used by the driver from the moment the driver logs on to the transportation network company's online enabled application or platform to the moment the driver logs off the transportation network company's online enabled application or platform. And that's offered as friendly as well.

[10:20:47]

>> Mayor Leffingwell: Okay. So councilmember riley?

>> Riley: Sure.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: That's friendly.

>> Mayor Leffingwell: That's incorporated. Councilmember tovo.

>> Tovo: Councilmember spelman, I have a couple of questions for you about the amendment that you provided. I'm looking at the information that the staff compiled for us about the california bill. And I wanted to

-- it looks like there are a few differences and I wanted to ask you about those. The first is that the california bill talks about the transportation network

-- first of all, they set different amounts and I wanted to see if you had considered using the same amount for that level of coverage, for that phase of coverage.

>> Spelman: No, I did not. These were working off the same amounts that we have been working off since we began this process. And since this is consistent with the minimal texas coverage, which is considerably higher than the minimal california coverage for personal coverage it seemed to be consistent just to keep that number.

>> Tovo: Okay. So that was the rationale there because california actually does 50,000, 100,000 and 30,000.

>> Spelman: And that is much higher than the minimum coverage required for drivers on their own. They would have to actually get more coverage in order to drive for a tnc.

>> Tovo: Okay. My second question is it does talk about

-- the california bill talks about the transportation network coverage shall be primary and it goes on to allow those to be options. But again, I wonder if you could talk about why

-- what your reading of that is and why you didn't think it was credit toll to include here?

>> Spelman: There are two california proposals, one of which was made by the public utilities commission of california and the other in which was enacted in state

-- I believe it was assembly bill 2293.

>> Tovo: Right. Approved by the governor. I'm reading by the one approved by the governor.

>> Spelman: It's my understanding that the one approved by the governor, I don't know where the word primary was used or not.

[10:22:48]

>> Tovo: I'm reading from it. This is what the staff gave us in response to your question.

>> Spelman: Okay. Whether we used the word primary or not, the critical issue seems to me is there going to be coverage. There will be coverage, we know there will be coverage if you have an endorsement in your insurance which says you're covered for tnc stuff, the tnc endorsement hasn't been invented yet, but I presume it will be. In absence of the tnc endorsement, what this amendment says is you will be covered by the tnc. Whether it says primary or not really matters. You will be covered by the tnc if you haven't got tnc insurance from your personal carrier.

>> Tovo: So in your estimation, the

-- I would also like to have our staff weigh in on that. It does talk about the bill from california that was approved by the governor, but it also talks about that a transportation network company can meet its obligations under the subdivision if

-- only if the transportation network company legislatorphize that the policy written by the driver's use of the vehicle in connection with the transportation network companies, etcetera, etcetera, online platform. Add I see it, I don't believe the ordinance contains that provision.

>> Spelman: I am not

-- no. It does not.

>> Tovo: You talked about something that touchdowned like that, though. That you felt we were well covered because there would have been some verification that the personal

-- that a driver had that transportation network coverage. This does not do that. I don't feel the need to include that if you would like to offer it as an amendment or an amendment at this point to councilmember riley's main motion, you should feel free, but this is not what I intended here.

>> Tovo: Can you tell me why you modeled it after california, but not used some of those provisions.

>> Spelman: The critical provision to me in california is it's a matter of timing. At this point if we said the primary coverage is going to be offered by the tnc, that's the law. And they're going to have to offer primary coverage for the foreseeable future. This appears the door for the potential that private carriers would offer personal insurance with the tnc endorsement. That might happen in three months, six months, a year. I'm not sure how long it would take, but I suspect it would happen at some point fairly soon. And this would not require the tnc to come back in hand to the city council asking for a change in the law if that endorsement became available. It would make that endorsement be allowable from the very beginning as soon as it becomes available. That seems to be a very reasonable way of ensuring that the public need

-- that liability insurance would be available by driver

-- for drivers if they hit somebody app on, that the public need would be met.

[10:25:48]

>> Tovo: So it provides for a new option without revising the law. I guess I would like to hear from our staff

--

>> Mayor Leffingwell: If you don't mind, I think councilmember Riley would like to attempt to answer your question too.

>> Tovo: My question at this point is for staff. If I could hear from the legal staff. So I guess could you please weigh in on whether you feel that this addresses some of the issues that you and our risk assessment staff had mentioned of the potential that a driver would be denied coverage by their personal insurance and might have difficulty renewing their policy? And by the way, it's not just our staff. As I look through some of the commission, the various state's insurance commission warnings, they alluded to just that very possibility.

>> No, councilmember, as it's written

-- since the driver's insurance would still be involved, it would still have to go through

-- I'm sorry, the driver would still have to go through the claims process with their insurance company, giving rise to the concerns that the risk management officer described,, but she's here and she can explain it a little better, I think.

>> Tovo: So the risk is less that

-- there would eventually be some sort of coverage because the tnc's contingent policy would come forward, but the risk would be to the driver that they may not be able to renew their policy in the future because they had most personal insurance policies say that you can't use your personal vehicle for commercial purposes and they would be in violation of that and would not be renewed.

>> Hi, Leslie Melvo, risk manager human resources department. You are correct. There are exclusions under Texas auto policies that exclude commercial ventures. There's also an exclusion in the personal policy for livery services. So there is a possibility that when a driver has the app on that the personal lines auto policy will exclude the coverage.

[10:28:03]

>> Tovo: Can you speak to

-- and this I guess is a question for our legal staff. The amendment that was just adopted says the requirements for the coverage required by the paragraph may be satisfied by any of the following. Does that ensure that it will be? That it will be satisfied by one of those options? The use of the word may jumped out at me and I wanted to be sure that at least

-- I mean, this does not address the concerns that our staff raised. It does not address the possibility that drivers will lose their personal insurance coverage, but it's clear that the political will is not there to hold

-- to stick with what we adopted last time. But does this at least

-- does that language cause you any concern, the may be satisfied?

>> It actually doesn't because it's the options that we're describing earlier. It's saying you can do any of these things and it would satisfy. If councilmembers and the council would like he to add the word shall, if that would make you

--

>> Tovo: Well, you're our legal counsel. If you feel that this translates to a shall, you shall do one of those things, then I'm satisfied with that. If you feel that may does not require them to do one of those three, then I think we should adjust the language.

>> I think we should adjust the language. I reread it. I understand what you're saying. And I believe we

should adjust the language to a shall to make it absolutely clear.

>> Tovo: That they must do one of those three options?

>> Yes, ma'am.

>> Tovo: Have you had a chance to review the rest of this? Of the amendment?

>> Yes.

>> Tovo: So I would propose that we assess the language in the amendment that was adopted as a friendly one from may be satisfied to shall be satisfied.

[10:30:11]

>> Mayor Leffingwell: Satisfied mayor councilmember riley, do you accept that?

>> Riley: I would note that the previous sentence does say transportation

-- that the insurance shall be in the amount of at least those amounts and then the next sentence says, and you may satisfy it in any of these ways. I think that changing that may to shall is exactly the same meaning. I think I would be fine with it, but councilmember spelman offered the language so I would defer to him. [One moment, please, for change in captioners]

>> Mayor Leffingwell: Is that sure what you mean, 2 and a half percent?

>> Tovo: No, please ignore the subheads. Just look at the text of the draft ordinance.

>> Mayor Leffingwell: Okay.

>> Tovo: This will set a cap of surge pricing at 2 times the normal amount of fare. We have had a time to discuss this the last couple of meetings but I would encourage you to look at some of the media coverage that came forward this week. There have been many more examples of customers who have paid 500% times the normal rates, and I would say the ordinance in front of us has no capital. There is absolutely no limit placed on how high the rates can go and in the interest of consumer protection, I suggest to put a cap on it and that's the cap I suggest, 2 and a half times. Again, my amendment begins at 18 under.

[10:32:39]

>> Mayor Leffingwell: Council member riley.

>> Riley: Yes, I don't accept that as friendly. There has been a significant amount of media coverage, including coverage of the 100,000 times during the alc fest that people at acl fest chose to use tncs. The coverage indicated that for the the first r first time we actually had effective ground transportation service available at acl and the wait times were typically about 5 minutes, but that was

-- it was a very significant improvement over past years. One of the main media story I saw involved a young woman who couldn't figure out

-- after acl couldn't figure out how to access the services so she handed her phone to the stranger on the street who said, oh, I will take care of that and then

-- and then after she got it back, she got the

-- she got hit with the bill. Yes. There are

-- it is difficult to provide an informed

-- to allow an informed decision if someone is handing the phone to someone else. This ordinance does

require informed decisions. I think the companies have done  
-- have proven that they are actually pretty good at doing that. And, in fact, the whole model is based on  
-- on satisfying the customer. If the customer has a bad experience, they aren't going to use it again. This  
is an option that no one is being required to use. It is a new option and if people want to have the option  
of having good, quick transportation after a festival at a somewhat higher price than they would pay at  
nonpeak times then I think it should be, so I don't think see that as friendly.

>> Mayor Leffingwell: Motion not accepted.

>> Tovo: I want to clarify you are talking about the stranger is the driver who plugged in that  
information. So I move that we adopt this amendment.

>> Mayor Leffingwell: Motion by council member tovo to

-- for her amendment. Is there a second? Second by council member morrison.

[10:34:44]

>> Morrison: Mayor, I have a question.

>> Mayor Leffingwell: Council member morrison.

>> Morrison: We are talking about surge pricing and we are also talking generally overall about  
eventually, hopefully very soon leveling the playing field because we have vehicles for hire, taxi drivers  
that are out there under very strict fare constraints that they are allowed to charge but it occurred to  
me as we are thinking about surge pricing, it was a year or two ago

-- no, it must have been more than a year or two ago. I think it might have been sometime when there  
was a lot of discussion about how do we

-- how do we deal with peak times with taxi drivers and we did, I believe, allow on extra charge during  
peak times and I wonder if someone can come up and remind us what that peak surge pricing is for  
taxidrivrs that we limit them to.

>> Carlton thomas again. In 2012 council approved a code amendment that would allow taxidrivrs to  
implement a 1 dollar per passenger in between the hours of 9:00 p.M. And 3:00 a.M.

>> Morrison: What is the limit on the number of passengers in a taxi?

>> That's limited to the seat belts in the vehicle?

>> Morrison: So maybe 3, 4, something like that?

>> It's up to 6, I think.

>> Morrison: Right, so I want to show that out in terms of a juxtaposition of the incredible constraints  
we put taxidrivrs in and

-- and all of the lobbying that they did just to get that one dollar per

-- per passenger fare for peak times, so I just think it's a shape that this is such a different situation, and  
there is no limits. I mean, we saw one that went from, I think, \$11 to \$200. That's 1,000%? I mean, it's  
huge. It's huge. So I will certainly support this motion. I think it's good for the people of this community  
and the tourists.

[10:36:54]

>> Cole: Mayor.

>> Mayor Leffingwell: I will say, I agree, that is a huge increase and certainly suspect and I would be concerned about that. But basically this is a demand-driven model. There has to be a way to incentivize drivers to say, hey, I think I am going to go to work. So I am not going to go into it any further than that because we have discussed it on several occasions

-- two occasions before so I am not going to support the amendment. Mayor pro tem.

>> Cole: Pro tem, I have a question of staff based on council member morrison's comments and yours, also and we had a discussion about this being a market driven process but I would like to get a brief overview of when the taxis are actually coming back before council to deal with a lot of the constraints that they are under presently.

>> So currently the taxicab task force has been meeting since january to address the franchise renewal process. All three franchises have been aligned to come up for renewal in august of 2015.

>> August of 2510?

>> Yes, mayor pro tem.

>> Martinez: Mayor.

>> Mayor Leffingwell: Council member martinez.

>> Martinez: In part 12 of this ordinance that we are contemplating, it does direct the city manager to seek equity in the treatment of taxis and tncs with regard to fares charged, dynamic pricing, fleet size, accessibility, ininsurance, vehicle safety and other driver background and relevant factors. What I intended to do in a moment was try to add a friendly amendment that those recommendations come back in 30 days and not wait until august of next year.

>> Cole: Thank you, council member. That's actly my concern. I have supported this

-- the tnc licensing and procedures and I do support their coming to austin but I do have a concern about the taxi industry and addressing the issues they have brought forward at the same time because I don't believe it's an either/and

-- either/or situation. It is an "and" but we have to address them both.

[10:39:01]

>> Mayor pro tem, if I may.

>> Cole: Yes.

>> On the same day that mayor and council approved a resolution that

-- that assembled the tnc working group, an additional resolution was adopted to have the taxicab task force address some issues that existed within the taxi industry and with relation to the tnc. We are prepared to provide mayor and council a preliminary set of recommendations that we had been working on with the task force within

-- prior to november 16th, I think we are shooting for.

>> Mayor Leffingwell: So let me just say, I agree completely. In fact, I am the one who offered the amendment that constitutes section 12. I absolutely believe all cab operators should be given the same or equivalent treatment when we finalize this after the stakeholder meetings. And recommendations.

>> Morrison: Mayor.

>> Mayor Leffingwell: Council member morrison.

>> Morrison: I wonder last



-- mr. Thomas, so the recommendations

-- and it's going to be staff's recommendations based on the work of the task force; is that right?

>> That's right. The task force will inform the recommendations.

>> Morrison: So we will start this all over again? Great.

>> January 1st.

>> Morrison: January 5th. Not the 1st. So last time during our hearing we did have a comment that was concerning to me from one of the task force members who sort of flippant

-- who said, oh, we are not going to come out with anything that anybody agrees on from the task force discussion, which I found very concerning and if you have any comment on that, I would love to hear it. I know there is some other task force members in the audience. I think I saw boomlocker and some others. But do you have any comment on that? Because we are counting on that

-- that we are really going to get something that's going to be actionable to be able to bring equity so that this very inequitable situation doesn't linger.

[10:41:20]

>> As I recall that member was actually a member of the tnc working group and not the taxicab task force. We have two bodies putting on work on separate things.

>> Morrison: So I am confused. So is the tnc working group bringing something back? Yes?

>> Yes, the tnc working group was given 180 days, I think, and we are working on the 120-day report from the task force.

>> Morrison: And I thought they were going to address how to equalize things, also, or am I wrong about that?

>> So equalization is being discussed in both groups.

>> Morrison: Okay.

>> So with the task force we've made a presentation to the urban transportation commission tuesday of this week. We have crafted a set of preliminary recommendations. Again, we are poised to forward those recommendations to mayor and council.

>> Morrison: So is it going to deal with, for instance, the concept that as it stands this draft ordinance has no cap on surge pricing for tncs and taxidrivrs are limited to surge pricing of 1 dollar per passenger?

>> It was discussed during the task force. I was

-- what commonly was mentioned was the fact that taxicabs are considered a utility and during periods of surge pricing, you have some period who rely on taxicab use and may not be interested in attending ac but going to the grocery store and surge pricing would affect those people as well in the taxicab industry.

>> Morrison: How do we deal with the fact that because of the market-driven nature in some of this, we are seeing

-- if we consider it a public utility, it

-- you know, some way disappearing because it's not financially feasible or sustainable in the face of market-driven. So how do you balance those two things? If you are requiring it

-- if we are depending on it as a public good, how do we subject it to market constraints and not? I mean ... Help me out here gordon.

[10:43:33]

>> Gordon with the austin transportation department. We as staff are charged, by you, as council to come forward. The city manager has been asked to come forward with recommendations. So we are coming forward with what we think is going to be a consolidated set of recommendations. So the comment previously was we bring up topics to both of the groups, get feedback from all of the different groups. They don't necessarily come to consensus but then we as staff, then, are taking that forward. So we see a future where the three taxi companies registers as the tncls. So they operate both as regular taxi companies and tncls. So it may be that they have an application where they could get surge pricing, and it may behat if someone calls them on the phone, they use the taxi meter or with hails, they use taxi meters so we may have kind of a hybrid system here until it actually gets in operation. We are going -- it's going to be pretty dynamic, like we

--

>> Morrison: I appreciate it. It's a

-- it's a hard nut to crack.

>> Yes. [Laughter].

>> Morrison: But I do want to say that, I mean, in terms of ensuring and guaranteeing for the public good, that there is going to be somebody that is available to transport someone in need without a lot of funds to the grocery store when surge pricing is in effect, what you suggested, in no way, would guarantee that, unless there is some additional constraints? I mean, why would a taxi company be in business if they are required to serve a call that's only going to, you know, bring them \$10, when at the same time, they know they can be driving and making \$100?

>> That's going to be some of the dynamics

-- we have some idea of what the market is, but if this gets fully deployed, the market could be twice as what it is now. We don't know, so what the hope is, is that as we get data, we can adjust things but part of that is the safeguards for those who need transportation and then if you take a 12-dollar trip to the grocery store all of a sudden, it is not a lot more than that.

[10:45:59]

>> Morrison: I would suggest that if we really see that as a municipal government responsibility, that's going to be

-- we are going to be hard-pressed to find the solution. As I understand it, in san francisco, the taxi calls are down 60%, which tells me that it's

-- you know, there are going to be fewer and fewer taxi companies that want to stay in business, so if we want to have that as a safety net, we have got to figure something out. I wonder

-- is mr. Blocker here? I didn't see him. Oh, you are hiding behind gordon. I wonder if I can ask you your thoughts on the progress and the discussions. You are on the utc. Thank you for serving. I don't know which of these groups you are a part of. Probably all of them.

>> Fortunately or unfortunately, I am on all of them.

>> Morrison: Great. [Laughter]

>> and just to take a step back, we realigned the taxi franchises that expire august 15 but there will be work going up until august 2015 to kind of get the city and the citizens maximum negotiating power, and so it

-- it would be waiting for a lot of the stuff for the taxicab force would be folded into the efforts to see what the city can expect and ask for from taxi franchises when they are up for renewal. In terms of the tnc working group, we have discussed accessibility. Our next meeting is on the 24th, and I understand that our work will continue even if this passes on a third reading today, but when the wheelchair accessible

-- overall cab trips in san francisco are way down, which means wheelchair accessible trips are way down. The key will be for the city

-- the city of austin. We know what the permits are. When the vehicles go

-- when a wheelchair vehicle goes off line, because a vehicle lasts like 8 years, so it would be

-- it would be very important to keep track of those vehicles to maybe do some

-- not the city buy them but have the

-- you know, just the city facilitate the information transfer because those vehicles are maybe a little bit older but those vehicles are already all wheelchair accessible and so an independent living place already has drivers, and maybe, you know, those cars can come on over a lift platform, but that's the bare minimum of what we want to do because we don't want any of the wheelchair accessible taxis to come off line and not be available for the city, whether they be taxis or o

-- or uber or lyft. You don't want them to go away.

[10:48:51]

>> Morrison: So can you give us a brief summary of how the utc responded to the report that they got recently?

>> The taxi task force is a lot of what we

-- it was a lot of what we agreed to as a group, and then that was presented to the utc and I don't know if we passed a formal resolution but we didn't

-- there is a couple of members from the utc on there so I passed that. In terms of the tnc stuff we got, the only vote that we really had on tncs was in our september meeting. We voted for

-- to proceed with the tncs just because there was some work about accessibility and green vehicles and all kinds of different things, which has been addressed since then, but that's

-- that's the utc's role and input in that.

>> Morrison: And were you one of the members of the task force that signed a letter that was sent to all of the council members last time?

>> I did. I did.

>> Morrison: Can you summarize for us what that letter said?

>> Mainly to allow the tnc working group to come to the

-- to finish our work and in the time frame. And I understand even if this passes today, the tnc's work will maybe continue. Like I said, we have a schedule for 24th of october, so that gets a little bit sticky. So the

-- but what we

-- like I said, I am also on a taxicab task force but one thing  
-- these issues are interrelated and so the letter supports on it  
-- the letter touches on it and there are some people in the cab industry on the tnc working group and so it's a little bit different. It's unfair for cab drivers to have to comply with all of these regulations that we have put on them and not saying I am pro or against tncs but when they are having to do less things that's completely burdensome, you can't  
-- you can't do that to cab drivers. So what they have done in san francisco is after those  
-- after the changes to the taxicab industry went through, the metropolitan group, our capital metro for san francisco required the caps to have electronic hailing devices, to encourage the companies to provide more wheelchair accessible service, but, you know, this is relatively all new so I am not sure how much work has been done in other areas of the country, so ...

[10:51:41]

>> Morrison: So when we see the  
-- we will probably see the changes to the taxis with the new franchise agreements?  
>> Repeat that first part.  
>> Morrison: Are we going to probably see the changes for the taxidriviers with the franchise changes of the renewals?  
>> Yes. Yes. That's why we did that. So kind of incorporate that and barriers and regulations tend to be loose on the cab industry to make it more competitive and a level playing with the tncs, if that is the case, then that will happen.  
>> Morrison: Thanks. Boone.  
>> I have a  
--  
>> Mayor Leffingwell: Council member tovo, we haven't voted on this amendment yet.  
>> Tovo: I remember. Since we are talking about the work that the taxicab stakeholder group is doing. One of the amendments I made is to make sure that that group is also listening to one of the long-time requests of the cab drivers which is that the city create some kind of legacy permit process that would enable the cab drivers to get their permit directly from the city, because right now they have to go through the franchises and, as you know, they, then, have to pay for insurance. They have to pay a terminal fee and the costs really mount. And if we are moving to a situation where drivers in one form of vehicles for hire can charge, you know, unlimited rate  
--  
>> right.  
>> Tovo:  
-- It would seem to me to be very important to look at the cab drivers  
-- the proposal that the cab drivers have mentioned. I want to ask you is that something that's already been discussed?  
>> Yes, some of that is happening already. All of our cab drivers are independent contractors but the last batch of wheelchair vehicles that yellow cab got are company owned. They can dictate when they are on the road, who is driving them, which is not the case now, so the new taxi permits that the city staff is

wanting to put on the table to provide me cabs out there, the newer vehicles

-- wheelchair accessible vehicles will also be company owned, and so when you go from a dynamic of an employee

-- or a company owned direction to an independent contractor, it changes the dynamic. So we can't have all of this tnc stuff and not look at things like legacy permits or medallions or whatever you want to call them

-- medallions or whatever you want to call them. I am not saying I am for or against it yet but you have to look at that because it's the right thing to do, so ...

[10:54:15]

>> Tovo: I agree. Thanks. And mr. Thomas, I just want to verify for you a couple of

-- just one basic point about the ordinance we have in front of us. I heard a couple of my colleagues say that if the rate did go up 1,000%, that would be something that

-- I forgot in the language

-- would give them pause. But just to verify the ordinance before us sets no cap at all. Indeed the surge pricing could go to 1,000% and there is nothing in the ordinance we are passing today that would prevent that?

>> That is our understanding.

>> Tovo: Okay. Thank you.

>> Mayor Leffingwell: Council member Riley.

>> Riley: I guess we have got a couple of issues coming here. First of all, is there a representative of uber that can address that point, about 1,000% surges? Surge s. Have we been seeing that of 1,000 percent or more?

>> With surge, it is demand based pricing and it is geosensed in an area, so to answer the question about groceries and whatnot, it's where the demand actually is. As demand spikes, it notifies the drivers online that that's where it's busier so the supply lets the drivers who are not online are busy, so the supply goes back and surge pricing goes down which is what you saw at acl and that's why so many ride were able to be completed, is that drivers knew when concerts

-- when the concerts were getting out, when the demand was spiking, so, yes, it

-- that's a very unlikely scenario.

>> Riley: So even during acl, if somebody wanted to go to the grocery store in some other part of town, they wouldn't be seeing the same surges.

>> No, it's geo specific.

>> And I know we have had concerns about lyft before. Do they do the similar approach?

[10:56:17]

>> Similarly, it's specific to a geographic area in making sure that the supply meets the demand. In fact, we have a snapshot of what the demand actually looked like at acl. And we can show it to you. It's on my phone right now, but if it's helpful to understand the fact that there are limitations in terms of where that

-- that dynamic pricing occurs, and it doesn't affect other areas of the city that don't have those same needs, that's

-- I will be happy to ...

>> Riley: So the passengers who are paying those surge prices are the ones that are taking that same demand type trip, for instance, to and from acl?

>> I am sorry, I didn't hear.

>> Riley: The ones who are choosing to pay the higher prices are the one who is actually going to and from the big event?

>> Yes, most of the demand is within the festival area and a lot of it was at the campus. And as usual, as I have said before, the passengers are always informed. They see in big bold letters the fact that the person is in prime time and they have to confirm they understand what the rate increase would be and only then would the ride request go out to the driver.

>> Riley: Okay. Is there a visual you want to show about that?

>> Sorry.

>> Change to the document-cam.

>> So that's a snapshot from the driver's phone

-- not that. [Laughter]. Ironically we are having technical difficulties. [Laughter].

>> Cole: We understand.

>> Spelman: A little bit mayor.

>> Riley: Okay. Okay.

[10:58:18]

>> Mayor Leffingwell: I don't think we really need to say it.

>> Riley: Yes, I think we get the point. [Laughter].

>> Riley: I think we get the point. With that, I would like to come back to the issue about accessible ride, if we could, please. I know

-- I see that we have

-- we have

-- we have someone here who

-- another member of the tnc working group that we haven't heard from yet on this issue.

>> Mayor Leffingwell: Council member, do you want to vote on this outstanding amendment or

--

>> Riley: On surge pricing?

>> Mayor Leffingwell: Yes. Yes.

>> Tovo: And I

-- mayor.

>> Mayor Leffingwell: Council member tovo.

>> Tovo: If I may, given the discussion I have, I feel it's necessary to point out that whatever the practice was during acl, the question I asked of our staff is whether we have anything in our ordinance that would prevent a tnc from charging 1,000% or any other percent increase and the answer is no, there are no limits in the ordinance we have before us, so I appreciate that that complaint be

-- I appreciate that may not be the practice or what was going on at acl. I remind my colleagues when we talk about the geographic location of acl, that also includes downtown. We have people who, believe it or not, come into the university area and downtown area for reasons other than going to acl, like they have a job downtown and rely on a car or are transit dependent. So there are other reasons to go in and out of these geographic areas that don't necessarily correspond to going to events. As we consider making sure that we are

-- we have a public transportation system that's going to be accessible to all members of our community, it would seem to me important to put some kind of limits

-- some reasonable limits on the pricing. Floor mayor.

>> Mayor Leffingwell: Council member riley.

>> Riley: Very briefly. And, yes, we know surge pricing is going on right now. But we don't know much about it and we don't have a fair test of how it will work because driving for a tnc still is illegal at this point. A benefit of putting this ordinance in place is we will give it a fair test. And as we do that, we will, for the first time, actually be collecting data so we will know if the companies do start charging 1,000%, we will know that as a result of this ordinance, and so that's all the more reason to get an ordinance in place.

[11:00:36]

>> Mayor Leffingwell: Those in favor of the amendment, raise your hand.

>> Riley: The amendment. [Laughter].

>> Mayor Leffingwell: Those opposed raise your hand. Opposed. Okay. The motion passes on a vote of 3-4 with council member riley and myself and council member spelman and mayor pro tem voting no.

>> Riley: And, mayor, if I could, I would like to go back to the issue of accessible cabs because

-- about accessible service because I think it is very important to bear in mind and we have a member of the working group who has been focusing on that issue and I think it's important to address it. The concern is if we get

-- if we allow tncs to operate legally in austin, then we may be jeopardizing a system we have in place for providing accessible ride now

-- illegally

-- and it's a very serious concern, and especially

-- it would be especially serious if we had a very good effective service of providing accessible ride currently, and so mr. Witty, you have been deeply involved with these discussions. I would like to get your perspective on how you see

-- how you see tncs affecting the availability of accessible ground transportation.

>> Thank you. My name is david witty and I am with adaptive texas and also a member of the taxi task force as well as the tnc task force and I have been following this conversation with the taxicab task force since the winter and tncs since the spring and mostly the summer but one of the concerns I had early on with the

-- with the possibility that the tncs might start some contracting their services for wheelchair accessible services out to the taxicab industry was that that would then pull taxicabs off line. It would be great for getting accessible uber or lyft ride, which frankly, I I am not sure they would be accessible because they

would be taxicabs that are being subsidized by another business, so I really want to see an improvement in the availability of the overall services. I don't think that taking cabs off line to provide accessible services for uber or lyft is a good idea. For one, we already know from the track record and the council has heard me speak on this many times, that there are not enough accessible wheelchair cab service right now. And the recommendations are coming forward from the taxicab task force are taking large steps to help alleviate some of those problems and correct those issues and make some changes in the transportation code that will be big improvements for taxicabs. I would like to see a similar set of requirements for the

-- for the uber or lyft in that the nearest accessible vehicle as identified by gps may be made available  
-- be mandated basically to respond to the call and request for an accessible tnc. Basically I just think, you know, there should be more ride available, because it's already hard enough to get a ride as it is.

[11:04:02]

>> Riley: So you see this as potentially a positive step forward? If we are able to put in expectations about equivalent service and are able to gather data on what kind of service is being provided, do you see this as a positive step forward?

>> I definitely see it as a positive step. I want to be clear that my term of the usage of "equivalent" is not the same as many other people's usage of the term "equivalent." Because many folks are seeking to have equivalent playing field between the taxicabs and the tncs, and I understand that concept, but my usage of the term equivalent services is within the

-- either industry. It is within the taxicabs, I want to have equivalent access to a taxicab as any other taxi patron. And when I say equivalent service in tncs, I want to have geographic service area, pricing, response time, the same as any other passenger or user of the tnc service.

>> Riley: Okay. And so would you say that currently you feel like

-- those who need accessible service have been getting equivalent service from taxicabs?

>> It's difficult. It's very difficult. The recommendations that are going come forward from the task force, I think are going to help make those improvements, but the reason for those recommendations is because there is a need for improvements.

>> Riley: Right.

>> So obviously I think there has been a problem in the past. I think there has been a problem for the past 20 years with taxicabs, and I think that now that, you know, there are some recommendations that are coming forward, serious things that are saying the nearest cab as identified by gps must respond, some improvements in the numbers of vehicles of fleet size, but mostly the fact that there will be a response time

-- a response that's required and a possibility with future permits that the taxicabs would be focused on wheelchair accessible services.

[11:06:08]

>> Riley: So your support of us moving forward with this tnc ordinance and for further changes with the taxicabs as well?



>> Yes, the question you were asking me was about taxicabs. To get back to the ordinance, yes, I am totally in support of this ordinance.

>> Riley: Great. Thanks.

>> Mayor Leffingwell: Council member morrison.

>> Morrison: Mayor, I have

-- you know, last time we

-- I had come through the ordinance and found some things of concern. I feel like there are still a couple of things I need to raise to my colleagues. First were public safety issues. One, council member tovo

-- I believe it was on first reading

-- raised the question of criminal background checks and asked why we didn't have the city do the criminal background checks like they do with our other drivers, and what I heard in the discussion was, well, the

-- the industry

-- why would we want them to be our hr department, and then it was clear that we would be able to audit the findings and all of that. Well, I did start thinking about that and looking a little bit more into the online services that are available and I have some notes I want to pass out to folks, because I became very concerned what when I started looking at the services in terms of if accuracy of the information that's going to be available. Let's see. I think it was lyft

-- I hope I got this right. It was during testimony last time or during that lyft and uber were talking about sterling backcheck and higher right. If you are looking at sterling back-check, they were frequently asked questions

-- I was curious about accuracy because we use

-- we use the law enforcement. We go straight to law enforcement. We use their databases. So the question is what data is publically accessible data apparently that the online services that these companies use is available? The question would arise about how complete their capturing of the publically accessible data is and all of that. One thing I found on sterling back-check which is one of the ones that is used. It says unrivaled accuracy. Sterling back-checks has a high criminal check rate of 15.7%, means that we are more likely to catch a criminal than any other pre-employment screening company. Now, I don't have any idea what that means, a criminal record check rate of 15.7. Hopefully

-- I don't know what that means but it does not make me feel very good about the expected accuracy. Maybe what they meant is that they

-- I am not sure. Then I looked at another one called u.S. Criminal checks. On the advertised

-- on the webpage in the beginning, you will see on the notes I passed out, it says a complete federal, state, and county criminal record report. Now, based what I read in the ordinance, something like this would work. It said this nationwide 50 state criminal history search is generating

-- generated using

-- utilizing all federal, state, and county government databases. This guarantees all the information is 100% accurate, reliable, and current. And then if you go and look at the user agreement, it says. This company makes no warranty as to the quality, accuracy, completeness, timeliness, and validity of any of the material it provides.

[11:10:15]

[Applause]. And then it also brought up a question for me because they mentioned search restrictions and they say arrest records and warrants are not covered and will appear in our database. That's a different issue. We are not asking in our ordinance for arrest records and warrants. On the other hand, if someone is pending trial for a murder charge, we might want to

- we might not want them to be driving. And then the other. The third thing that is the coverage area saying if you have read and agreed to our surge coverage area for the view state
- you can view the coverage area on the coverage area map, and so even though they say they are nationwide and they are in every state, they apparently don't cover all of every state. So that really, really raised concerns for me and I would like
- I think that for public safety purposes, it really makes sense for us to have the city do the criminal background checks, just like they do for all of the other drivers, so that's my motion and, as I said, it's essentially the same motion that council member tovo
- that council member tovo offered before, but having looked into this, I think it puts the
- we have the
- we have no idea what the accuracy is of the
- of the services that are being used by any of these companies and, you know, we are just talking uber and lyft. We are talking about who knows who potentially doing this so I think for the safety of the public, it would be important that we have the assurance of the background checks directly with law enforcement as our staff does.

[11:12:19]

- >> Mayor Leffingwell: Are you making that as an amendment or friendly?
- >> Morrison: I would like to offer it as friendly.
- >> Mayor Leffingwell: Council member riley. [Laughter].
- >> Riley: No, mayor, I am not going to.
- >> Mayor Leffingwell: He is not doing that.
- >> Morrison: I would like to make that a formal motion.
- >> Mayor Leffingwell: Motion by council member morrison. Is there a second.
- >> Martinez: Second. Second ed by council member martinez.
- >> Riley: Mayor.
- >> Mayor Leffingwell: Council member riley.
- >> Riley: We have looked at this before and fairly extensively in particular of how other jurisdictions have been approaching this. As council member spelman mentioned, the one jurisdiction that is most well known for having delved into this and having spent a lot of time on the tnc in general was california. The california tnc position provides that the tncs shall perform criminal background checks, the same thing in chicago. The tnc shall perform criminal background check. Colorado, detroit, seattle, tulsa. It is the standard
- it has been required in almost every city that we have looked at, that that
- that the tnc does the background check. We also have looked at how the background check here would compare to

-- holds up against other background checks that might be done, for instance, of the city and I know that the companies have discussed this significantly and I just wanted to

-- if either company would like to speak to this

-- I know there is an issue that's very familiar to you and if there is an issue

-- if you would like to speak briefly to that, how you see your background check comparing to a background check compared by the city, that will be helpful.

>> And with tnc and background check and with a warrants

-- we would not have anyone driving for lyft that has outstanding warrant. It is part of our driving concern and as far as sterling back check, they are used by 20% of the fortune 500 companies and also from city governments, grapevine texas, denver, colorado, minneapolis, and others in order to screen applicants. I can't speak to those statistics, about the 15%. I will have to look at that, but one thing that might be a concern in terms of making sure that that search is comprehensive in scope is that we look at over 1300 databases including county databases because that's the way you get most comprehensive information, is not just looking at the reports at the state level but looking at individual counties, so that's one of the things they do. They also do an arrest check. You mentioned people being arrested. That's not to make sure we aren't screening out people who have been arrested but it is another way to verify that you are getting people who have been convicted, to look at their arrest record, so they are doing a very thorough search for that. That's why we feel confident that sterling back check has the safest way to be able to screen drivers which is one of the reasons why 90% of the people who apply to be tnc drivers are actually screened out of the platform.

[11:15:22]

>> Riley: Thanks.

>> Cole: Mayor.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: I have a question. What is your concern with the city actually having conduct the background check?

>> The concern is that over 70% of our drivers are driving less than 15 hours a week so these are nurses, these are students and entrepreneurs and have full-time jobs and if they have to go through the process of being screened through the city, not only will it be a delay, but it could be possible to disincentivize them but we feel we have a process in place thoroughly screening drivers and being able to get them on board more efficiently, people who have been screened through our process and it is a delay and we also have concerns with regard to use of public resources, because of the number of drivers that would be added into the city.

>> Cole: How many drivers do you estimate?

>> We know that here 20,000 people have downloaded the app. I don't know what percentage of those people are drivers. [This concludes the caption stream for this meeting. Captions will continue on television sets in the meeting room].

>> On the background check companies, we know them to be reliable

-- we had one that the city mandate and any one can apply for the background checks and that's chauffeur licenses in background checks and one in 8 failed the background check

--

>> Cole: So you think it might not catch them.

>> So we vetted the background check and we know the quality of the background check, the city used and so we will still do our own and we don't trust the company that the city used.

>> Cole: All right. Let me ask

-- let me talk to professional staff about our background check process. Are you familiar with the other companies that are being used for background checks?

[11:17:32]

>> No, ma'am, I do not.

>> Cole: Do we use any outside company?

>> No, no, ma'am. We do the vetting ourselves. And it's required that they provide government certified background documents.

>> Cole: And so do you look in databases nationwide?

>> So if you have lived in texas for the three years, we require that you go to the dps and get a complete criminal background certified by the department of public safety. And if you have lived in another state, you are required to get your criminal background from that state as well.

>> Cole: So actually we use a process through dps, and dps only looks for texas, and if you have lived in another state, that state, but it's not a nationwide search?

>> That is correct.

>> Cole: And the statewide search, does that include all governmental

-- it checks the county records? Do you know anything about dps's process?

>> Yes, we understand that dps covers every county in the state of texas.

>> Cole: Okay. Thank you.

>> Mayor Leffingwell: Council member morrison.

>> Morrison: And just to be clear, this motion we have in front of us, the issue about public resources being used for background check has tnc paying costs associated with the background checks, and I would like to point out that the ordinance just says they have to do a background check. There is nothing about the quality, so while there may be, I don't know, the 15% worries me, but while there may be

-- so there could be companies that maybe not do it as effectively with not as high of quality, there isn't an ordinance that talks about any expectation about the quality?

[11:19:38]

>> Mayor Leffingwell: Council member spelman.

>> Spelman: I can shed some light on the dreaded 15.7% number. In an obscure section of the sterling back check website, said rather than limiting the search for recent applicant's residences, it includes surrounding locations and database data showing 15.7% more charges as a result. So presumably since checking outside of texas, they are getting 15.7% more criminal records on their background check.

>> Mayor.

>> Mayor Leffingwell: Council member morrison.  
>> Morrison: I appreciate that. It says 15.7. They don't say criminal record check rate of 15  
-- I see, but then it means we are more likely to check  
-- so it is just a poorly worded statement.  
>> Spelman: A very poorly worded sentence and that's the website  
-- they have better wording later on.  
>> Morrison: So they might be good at criminal background checks but might be not so good at  
--  
>> Mayor Leffingwell: At wording. [Laughter].  
>> Tovo: Mayor.  
>> Mayor Leffingwell: Council member tovo.  
>> Tovo: I believe we heard testimony last time about one of the tncs that they do it differently in each city and I want the staff to remind us, there were several texas cities  
-- I mean, it seemed to me in the research that my staff did that there were some cities that did their own criminal background checks and some that had the tncs do it but there were several cities, the larger cities in texas, and I think houston and dallas were among them, do the criminal background checks for any tnc drivers.  
>> So dallas, again, their proposal requires that tnc drivers go through the city to have the city conduct the criminal background checks. Houston's recently adopted regulations requiring the driver go through the city of houston and the city of houston conducts those background checks.  
>> Tovo: So our other peer cities in texas do it through the city?  
>> That is correct.  
>> Tovo: Thank you.

[11:21:41]

>> Mayor Leffingwell: Those in favor of the motion, raise your right hand. And opposed? Motion passes on a vote of 4-3 with council member riley, myself, and council member spelman voting no. [Clapping]  
>> Morrison: Mayor.  
>> Mayor Leffingwell: Council member morrison.  
>> Morrison: I do have some other points that I would like to make. Another thing that we took a look at that council member tovo had brought up on first reading was a 20 point inspection, and then on second read, at which failed, and there was a little bit of confusion about 19 points versus 20 points, and then on second reading, I had raised the issue that there was some very ambiguous language about the kind of inspection. It just said some kind of texas safety inspection or something, and it was clarified that the intent was the normal standard inspection that every car gets. The usual noncommercial car gets. And so that's where it stands right now. But I did want to staff  
-- I had a chance to take a closer look at the 20 point inspection, and I was just concerned, because, you know, the standard inspection is pretty standard and I wonder what are the things that are covered around the 20 point inspection, and are they really safety issues for the public. So I asked staff if they would speak to them. I did a comparison, only of the things that are  
-- some of the things that are on the 20 point inspection that are not covered under our regular

inspections that lay people get for

-- mr. Thomas, if you can speak to some of these. For instance

-- and I will just go down them, why you think that they would be important if somebody is actually in the business of driving someone else. I have the list here. Windshield, I believe, is checked in the 20 point inspection, and not the state inspection.

[11:23:41]

>> So any time -- and I -- if I may, bumpers is also one of those things that's checked that's not in this state safety inspection. Any time you have a compromise to a windshield or bumper, it could potentially lead to an accident being more

-- causing more injury than if the bumper were functional or the windshield wasn't compromised.

>> Morrison: So it's a weakened integrity of the vehicle?

>> That's correct.

>> Morrison: Would the same go for the rear window and other glass as part of the integrity? Okay. So the consequences of a

-- of a crash or an accident could be more severe?

>> Correct.

>> Morrison: Okay. What about doors? The doors apparently aren't checked to open, close, and lock on a regular state inspection

>>

>> so when you are on the passenger service business, it is important that anyone who gets into your vehicle be able to either enter or exit your vehicle at their own will, and which is why we require that all the doors and door latches of vehicles being used as

-- for the vehicles being operable.

>> Morrison: That seems to me to be a pretty serious safety concern, to potentially get into a vehicle that you can't get out of.

>> That is correct.

>> Morrison: Okay. What about front seat adjustment mechanism? That's on the 20 point list and not the state inspection. What would you envision the significance of needing to check that?

>> So, again, being in the passenger service business, you can imagine to encounter all shapes and sizes of individuals entering your vehicle and I think it would be important

-- and even for the driver

-- to be able to adjust the seat to accommodate either their

-- their guests or passengers or themselves to be able to properly operate the vehicle.

>> Morrison: Okay. Thank you. And then the last two: Speedometer and fire extinguisher.

[11:25:46]

>> So do I -- the speedometer, I think is pretty self-explanatory.

>> Morrison: You want to make sure the driver knows how fast he is driving.

>> Correct. And the fire extinguisher, we believe having a fire extinguisher within the reach of the driver

is an important factor in any vehicle for hire. It is currently required in all of the other for hire vehicles.

>> Morrison: So, thank you mr. Thomas. I think it's clear that it's a matter of public safety, that these are really important things to be checked, so I would like to make this motion that changes part 3, section b for 4 to

-- it's really just the part e that we are adding

-- that says there will be a 20 point inspection conducted by a mechanic certified by the state of texas, and then it lists out those 20 things, and I think

-- this is not an

-- whoop

-- you sat down too quickly. Sorry. [Laughter] this is not uncommon, right, for tnccs to be required to ensure their drivers have 19 point

-- 20 point inspections?

>> Yes, the districts tremendous create regulations throughout the country and it's become a requirement to have at least a 19 point safety inspection.

>> Morrison: So you sent something to me including entire state of california, entire state of colorado and seattle, all of those have 19 point inspections. Houston required a 20 point inspection. And chicago has a 22 point inspection. So, mayor, I would like to offer that as friendly. If not, I will make it a formal motion.

>> Mayor Leffingwell: Council member riley.

>> Riley: No. This is another issue that we have already talked about at length before and I am not hearing anything new. I don't know why we would subject these vehicles to a different requirement than we expect of the other cars. These are people's personal cars that they are driving on the road and we have expectations that they do need to pass the state inspection, but, no, I don't

--

[11:28:02]

>> Mayor Leffingwell: Not accepted. Council member morrison makes a motion to amend.

>> Morrison: And, mayor, if I could just respond. Yes, this is something that we are revisiting but what we didn't do, when we talked about it before, was actually delve into what was the difference. Mainly we didn't delve into it possibly because we didn't even know what was in the ordinance in the first place because it was ambiguous language that we only got cleared up last time, so I think that it is clear

-- it is a public safety issue if you can't get out of a car you get into.

>> >>Reporter: Anybody second council member morrison's motion? Council member tovo seconds.

>> Spelman: Mayor.

>> Mayor Leffingwell: Council member spelman.

>> Spelman: I wonder if I can ask council member morrison of which of these 20 points are not currently covered in the standard in the vehicle inspection required by the state?

>> Morrison: You absolutely may, and mayor, if I may.

>> Mayor Leffingwell: Council member morrison, I thought you already did that?

>> Morrison: No, what I did was I listed the 7 that are not in the state inspection, and so the other 13 are in the state inspection and I actually, at one point, asked staff what about we just do the 7 point

inspection to make sure that we just add these instead of adding redundancy and we didn't really recommend that because this is somewhat standard, I guess.

>> Spelman: If you can show me the list, I would like to see it.

>> Morrison: And if I can read them off.

>> Spelman: If you pass on the amendment because I wasn't able to keep track.

>> Morrison: I will read the 7 not included: Windshield, rear window and other glass, front seat adjustment mechanism, speedometers, bumpers, and number 20, fire extinguishers.

[11:30:23]

>> Mayor Leffingwell: Okay. Anything else council member?

>> Morrison: We are voting?

>> Mayor Leffingwell: Yes, I was trying to ... Okay. Those in favor of the motion for the amendment raise your right hand? Those opposed raise your right hand. That motion fails on a vote of 3-4 with council member Riley, myself, Spelman, and Mayor Pro Tem Cole voting no. Do you have more?

>> Morrison: I do, mayor.

>> Mayor Leffingwell: Do you have like one more?

>> Morrison: I have four more.

>> Mayor Leffingwell: I would suggest we place this item on the table and go into recess for proclamations. Be back here at 6:30.

>> Oh! [Laughter]. [. [This concludes the caption stream for this meeting. Captions will continue on television sets in the meeting room]. Mayor test.

[11:38:54]

>> Mayor Leffingwell: I don't think it's on. Test. If it's on

-- test, test. The volume is just down real low. You can't hear it. I'm getting zero feedback right now.

Okay. Our first proclamation tonight is for Arbor Day, which is a custom we've been celebrating here in Austin for a number of years. I'm very proud to have been part of it for many years and have been involved in a lot of the city ordinances that dealt with preservation of our trees and of course I'm proud of that. And I do

-- I know one small bit of trivia about Arbor Day that not many people know. And that is that it was originally started by a man named Morton in Nebraska, and he moved to Nebraska to start his company and he noticed that there weren't many trees in Nebraska, there were lots of plains. So he decided he was going to be a tree planter. You may know him, he's very famous for having made a lot of salt in his time, Morton's Salt. So that's the origin of Arbor Day. It's celebrated at different seasons and different parts of the country depending on what the best time of year it is to plant trees. Here in Texas it happens to be in the fall. So I have a proclamation to read in honor of Arbor Day. Be it known that whereas the city of Austin is known nationally for its stunning park system enhanced by rich sprawling forest canopy and whereas trees are valued by all Austin citizens for creating significant cost savings through prevention of soil erosion, improvement of air quality, mitigation of storm water and reduction of energy costs. And whereas though the ranks of volunteers and community stewards continue to swell,



the rapid growth of our city continues to increase pressure on our green space, and whereas I urge all members of our community to support efforts which protect our urban forest and plant trees, thus increasing the quality of life for generations to come during the city of austin's 23rd arbor day celebration. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by PROCLAIM OCTOBER 18th, 2014 as arbor day in austin. Congratulations.

[11:42:02]

[Applause].

>> Thank you. My name is angela hanson, I'm the urban forrester for the city of austin. I'm lucky to have a mayor who knows so much about arbor day. [Laughter] and I'm lucky to have a job to create long-term legacy for the city by planting trees. I thank the community and the city council for their continued support for trees in austin and I'd like to hang it over for a brief second to introduce teise perkins, the executive director for tree folks and invite you all to the arbor day celebration this weekend. [Applause].

>> Thanks, angela. I am the new executive director for tree folks, which is central texas' only nonprofit dedicated to urban forestry. We will be planting our one millionth tree in austin this saturday as part of the arbor day celebration at boggy creek park. If you would like to come join us we have 200 volunteers. We'll be planting 100 trees and there will be tables and events for kids and bands and food and a really good time. So if you would like to join us, that would be wonderful. And just get in touch afterwards. Angela, thanks so much and thank you to the mayor and to the city council for recognizing this really important day. [Applause].

[11:44:24]

>> Mayor Leffingwell: It's very small print. It's my privilege tonight to honor a man that I've known for several years ever since I've been involved in city politics, which sounds like it's almost 10 years now. The huratanian family has always been involved in civic engagement, been a very important part of our community and of course contributed to our local economy by creating jobs and running a very good engineering company. We appreciate all that do you for our city. So I have a distinguished service award for you which reads: For his 40-year career at civil engineering and particularly for his professional service to the city of austin, garo harutunian is deserving of public acclaim and recognition. Garo harutunian came to austin from armenia where he can't to research wastewater treatment technology and has fostered and contributed to the advancement of technology in this field. He has provided civil engineering and survey services to the city working on such projects as water treatment plants, pump stations, sanitary sewers, wastewater treatment plants, residential land subdivisions and airports. He was recognized as engineer of the year by the austin branch of the american society of civil engineers. We're pleased to recognize mr. Hurtanian's distinguished career and his contributions to the environment and public safety of the austin community with this certificate presented on the 16th day of october, 2014, by the city council of austin, texas. Congratulations, garo. And thank you for all your service. [Applause].

[11:46:37]

>> Usually I've always gone out of the line in speaking so I have a lot of wind in me. So I will make it just a few minutes. Mayor Leffingwell and city councilmembers, I just want to take a couple of minutes to thank you for this honor. I receive it with humility and will cherish it for the rest of my life. It has been my joy and privilege to work for over 40 years in and for our beautiful city of Austin. In these years many changes have occurred in our city. However, one thing has not changed is the excellence and engineering that the city staff has to offer, and that which they demand from your consulting engineering community. You have some of the most talented and dedicated professionals in the field. It has been my honor working with them in developing projects to better the life of many residents in our city. I am privileged to call many of them my friends and my mentors. I will miss many of the things that make up the life of a consulting engineer, especially the people with whom I worked day in and day out. The friends that we make throughout the years. All those of you that are here today and those who are not here, I cherish you all in my heart. Just remember, I am just a phone call away. Lastly, but not the least, I thank my wife Francis for the support she gave me in my work for the last 21-plus years and also raising our daughter Maria and my son Malcolm. Thank you again, Mr. Mayor and city council. May God bless you all. Thank you.

[11:48:56]

[Applause].

[11:51:17]

>> Mayor Leffingwell: We now have a proclamation in honor of social innovation month and we have Ned Graham here to tell everyone, including me, exactly what that means. [Laughter] We do have a very good idea. We all have an -- it's sort of been a revolution in this country over the last several years with all the different ways to make contact with your fellow human beings on this -- in this town and on this planet. And that can be for good or for bad. Darn Graham use it for good and recongratulate him for that. Be it known that whereas social innovation and entrepreneurship enhance our capacity to solve the most challenging issues facing our community and the world and whereas Austin's unique combination of social activism, creativity, entrepreneur neural spirit make it uniquely positioned to be a leader in the advance of social innovation and whereas social partners host the audacious philanthropy conference in Austin this weekend, bringing together phylon laptopists, business and nonprofit leaders from cities around the world and whereas Green Light's innovation, a driving force behind nonprofit and community collaboration in Austin is playing host to the event and demonstrating our city's leadership and social innovation and now therefore I, Lee Leffingwell, Mayor of the City of Austin, Texas, acknowledge the benefit of social innovation and Austin's role in its advancement and do hereby proclaim October 2014 as social innovation month in Austin. Dan, thank you for what you do and come on up here and accept this and tell us more about it.

[11:53:18]

>> Thank you, mr. Mayor. Thank you, council. This is tremendously exciting. Social innovation is a new concept. It really describes taking enstep neural principles and practices and ideas from the business and lending communities and applying them to achieve greater social good and applying to the lives of people in our communities and improving the way that nonprofits and other foundational activities work. Social innovation partners is a global organization dedicated to achieving this across the world. They chose austin as the location to host their annual conference this year, happening this weekend because of austin's commitment to combining the aspects of entrepreneurialism with social good. It will be an exciting time. There are a lot of other organizations also doing amazing things in austin. Livestrong is hosting an international entrepreneurial competition to increasing the surviveability and the way in which people deal with cancer. There are hundreds and hundreds of companies that applied for that and the finalists are pitching tomorrow evening. We have a lot of organizations putting up accelerators, incubators, co-working spaces. Really doing things to push social innovation forward. And this is really just the -- just the beginning. We're looking forward to the next time we're here with the mayor and council to be talking about having austin labeled as the social innovation capital of the world. I really appreciate it. And this is just a fantastic step towards a better community for everyone. Thank you. [Applause].

[11:55:44]

>> Mayor Leffingwell: Am I under arrest? [Laughter]

>> sort of.

>> This is a late birthday present. I understand you turned 40 this week, mayor, so we

-- so on behalf of the austin police department, specifically the air support unit, we've put something together here for your leadership. And we obtained our latest helicopter for the work you've done on behalf of the veterans and especially the work you've done with us on the american heros air show. So we wanted to give this to you as rho your tenure here draws as a close. So a little something to hang on your wall. And there is something inside of it.

>> Mayor Leffingwell: Of course, I have to say... Oh my gosh. Look at this. Air force one. [Laughter] [applause]. Thank you.

[11:58:38]

>> Tovo: I'm councilmember tovo and it's great fun to present the next proclamation on behalf of national archives month here in texas. It's especially fun for me because I've had the experience of doing lots of research in our archives here in austin and we've got some fabulous ones, both at the university and out in the community, including our own austin history center. And so on behalf of the city of austin and the city council, I would like to acknowledge archives month and to read the following proclamation: Be it known that whereas the archivists of central texas, in conjunction with the austin history center, sponsor a week long series of events to promote archive al interests and trends to the local community and where a as these events recognize archives and their function in society, highlight current preservation efforts and provide a free civic forum to discuss archive al issues in austin and

whereas this week also provides an opportunity to recognize and support the people and programs dedicated to documenting and preserving our cultural heritage for the enrichment of all texans. Now therefore i, kathie tovo, on behalf of lee leffingwell, mayor of the city of austin, texas, do here by proclaim october 19th through the 25th, 2014 as archives week in austin. So congratulations and I would like to introduce jennifer hecker from the university of texas library system to provide some more information about the activities that are going on this week and generally about the importance of archives and preserving our historical documents. [Applause].

>> Howdy. I'm jennifer hecker. I'm from the university of texas libraries. And I bring you today an invitation from the dedicated and hard working individuals that staff the city's own austin history center, two of whom nicole davis and molly right here behind me. And the friendly and knowledgeable professionals who make up the archivists of central texas, which is our broad professional group here in town. Despite what you may have read in novels or seen in movies or on tv, archives are not full of dusty old tomes and piles of moldy files and curmudgeonly old people telling you you can't touch anything. Instead, thanks to the expert work and the tireless dedication of professionally trained archivists the modern archives is instead a clean and welcoming repository, storing and providing access to the recorded evidence of our individual and collective human experience. Archives are both the homes of history and the foundation of our democracy and we invite you to come and visit with us this sunday from 2:00 to 6:00 p.M. At the spider house ballroom. We'll be there doing our first ever austin archives bazaar. We'll have 20 local repositories from all over central texas and you can come and speak with our archivists. We'll have interaction events, historical films being shown, all kinds of wonder event speakers, and we hope you come by and introduce yourself and find out what it is that we do and who we are and how we can help you guys out. So thank you.

[12:02:01]

[Applause].

>> Cole: Well, we have a great crowd out. Thank you guys for coming. I am please, sirred to read the proclamation for the national dyslexia awareness month. Be it known that whereas dyslexia is a learning disability that is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. It affects up to 20% of the population, and whereas during the month of austin chapter of the international dyslexia association, the dyslexia parent network, austin and other organizations which provide services for learners who struggle with dyslexia are raising awareness of the disorder and the kinds of help available. And whereas we join these organizations in encouraging austinites to learn the warning signs of dyslexia and to investigate the multisensory structured language interventions available for those affected by the disabilities. Now therefore i, lee leffingwell, mayor of the city of austin, do here by proclaim october 2014 as national dyslexia awareness month. Congratulations.

[12:04:44]

[Applause].

>> Hi, I'm heather hardman. Thank you so much for having us and we really appreciate all the

recognition for dyslexia awareness month. October

-- you can come up here

-- is a nationally recognized month for dyslexia awareness. And we feel very grateful. Many people don't know as many as one in five people are dyslexic and there is definitely a scale, but we need as much awareness as we can get for it. There are so many people who are not aware of all the characteristics and many students are not only suffering, but not always getting the accommodations that they need and deserve. So I think we have many groups here with us, we have rossson saunders with us. We have many parents from doss elementary. Certainly students from both schools. We have ben and robbie cooper who lobby at the state and national level. We also are so very grateful for all of our aids representatives from the board of trustees to the interim superintendent and certainly we are most grateful for all of the 504 and dyslexia representatives from that particular office. Now I'd like to just introduce briefly robbie cooper. [Applause].

>> Thank you, everybody, for coming. I especially want to thank our school district for all their support and their attention to dyslexia that they've shown and put effort into recently. And we're just grateful for everybody here. And I just want to say that my son and I have been working very hard on a national level to bring attention to dyslexia and the potential that these children hold is so great. 35% of our entrepreneurs identify as dyslexic. And so what we want to highlight is the potential within dyslexics. And recently in washington, d.C. I wanted to stress that this is not just a local issue, but our federal government is actually taking this very seriously and our science, technology engineering held a hearing on dyslexia and on that note I would like to introduce congressman lamar smith's district representative mike asmith.

[12:07:28]

[Applause].

>> Good evening, everyone. Don't let this presentation binder

-- don't let this presentation binder fool you. These will be brief remarks. I do want to read portions of a letter in support of dyslexia research, dyslexia awareness, dyslexia services penned by congressman smith who regrets not being able to be here himself. I have personal connections with dyslexia as my niece and many friends face its challenges. I have had the pleasure of meeting austin residents robbie cooper and her son ben. Robbie and ben shared many stories with me about the hardships they face in trying to ensure ben receives the best education possible. Ben has taken his passion, as robbie just mentioned, one step further by becoming an advocate and lobbying congress so others may learn from his experiences. People with dyslexia think in a way others do not. Many dyslexics are able to use their unique wiring as a creative and innovative advantage. We know that famous scientists and engineers such as albert einstein, da vinci and galileo work around their dyslexia, a difference, not a disease, to provide creative solutions to complex problems. Changing the way we approach dyslexia as possibility rather than disability enhances opportunities and brightens futures for millions of bright young people. Those of you here tonight are leading this change and approach and I am privileged to be hard at work on this with you. Thank you very much. [Applause].

>> Cole: If there are no other speakers, let's take a picture.

[12:11:38]

>> Cole: Next liked to issue a proclamation.

-- We have to move on to the next proclamation. Excuse me. The next proclamation is for national save for retirement week. It reads, be it known that whereas that whereas costs of retirement in the united states continues to rise. In part because people are living longer than ever before and because retiree health care costs continue to increase at a rapid rate. And whereas social security was never intended to be the sole source of retirement income for families, be many employees have not explored their retirement saving options, nor have they focused on the importance of saving for their own retirement. And whereas this week emphasizes that savings for retirement is a key component of overall financial security during retirement years, along with the importance of financial literacy and planning for retirement. And whereas the city of austin employees can benefit from developing personal budgets and financial plans that include retirement saving strategies that take advantage of tax deferred retirement saving vehicles offered through the city of austin deferred compensation 457 plan. Now therefore i, I lee leffingwell, mayor of the city of austin, texas, do here by proclaim october 19th through 25th as national save for retirement week. [Applause].

>> My name is aj padilla, I'm with the city's compensation plan. One of the great benefits of working for the city is deferred compensation plan. For the traditional 457 or the new roth feature that we've added, putting money away now can only help you in your retirement, it's good financial disability in retirement. It's a good peace of mind. If you're not saving, become part of the plan. If you are saving, save a little bit more because every little bit helps. Thanks.

[12:13:48]

[Applause].

>> Riley: Good evening, I'm city councilmember chris riley and it's my pleasure tonight to be able to observe a very special occasion related to our zero waste efforts here in austin. A lot of you have heard about austin's role in leading the nation in trying to get to zero waste. That involves a lot of different efforts. A lot of you have heard our mantra of reduce, reuse, recycle. Where a critical part of is reuse. As in so many of the efforts where austin is leading with help from our partners to help us figure out how we can make great strides towards our goals. And in the area of reuse, we've gotten a lot of help from an organization called austin creative reuse. And we have here tonight rebecca stuche, the founder and board president of austin creative reuse, a nonprofit that collects, sells and distributes donated, reusable materials to austin area educators, artists, cravers, do it yourselfers and more to give materials a second life by putting them in austinite's creative, capable hands. So we're so excited to have rebecca here today to celebrate national reuse day. The goal of this national reuse effort is to promote the social, environmental and economic benefits of reuse and to encourage more people to join the movement towards creating a cleaner environment and a greener economy. I'm going to let them -- I'll invite rebecca to tell us more in dale about the achievements that austin creative use is seeing, but first I want to go ahead and present this proclamation, which

[12:15:59]

reads as follows: Be it known that whereas austin reuse week celebrates the values of environmental stewardship, community building and economic development. And the local organizations that bring these values to life through reuse. And whereas austin reuse week coincides with national reuse day, which is designated as october 20th of every year to further environmental benefits towards austin's zero waste goal. Economic benefits by creating reuse jobs and investment and social benefits by filling charitable needs. And whereas the city of austin is co-hosting the international reuse event, reuse connects 2014 with reuse alliance texas during austin reuse week and is supporting reuse year-round through its resource recovery center, shop zero waste initiative and the austin materials marketplace tool. And whereas the city of austin encourages all residents, businesses and organizations, to seek out reuse opportunities through donation, buying reused, repurposing, upcycling, repairing, sharing, borrowing and swapping. And now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim october 20th, 2014 as the second annual reuse day and the start of reuse week here in austin, texas. Rebecca, thank you so much. [Applause].

>> Thank you, chris. Hi, again, I'm rebecca, the coordinator for the reuse alliance texas and the board president and founder of austin creative reuse. With me here tonight are a sampling of the people who represent programs, organizations and epitomize reuse, including ecology action of texas, goodwill industries of central texas, resource rate, campaign for the texas environment and treasure city thefts as well as the texas council for sustainable development. We are pleased to accept the city of austin's proclamation for october 20th as reuse day and the beginning of reuse week in austin. Reuse is about extracting the highest value possible from a product or material, preserving and even enhancing the integrity of materials through imagination, creativity and intelligence. There are many ways that austinites can support the reuse economy during the second annual reuse week. Reuse is about car sharing and bike sharing. Donating to and shopping at thrift stores, it's did darning socks, reupolycysterring couches, rechargeable batteries and bringing your own coffee mug to the could havety shop. It's sharing tools with your neighbors, donating books to recycled reads. Creating decorative mirrors from bicycle parts or making robots from discarded computer parts. The city's shop zero waste initiative lists businesses that sell recycled or reused items or offer repair or sharing services at [locallyaustin.org](http://locallyaustin.org). And the

-- you can look on the screen and you can find these businesses by looking for this shop zero waste decal in storefronts. Austin's reuse community is growing and we are grateful for the individuals and organizations that promote reuse. We know that reuse and sharing and repairing economy provide jobs and investment in our community. We know that aggressive reuse will help austin reach zero waste faster. It supports the cultural arts and our education system and we know that reuse helps many people and organizations in our communities save money and meet material needs for clothing, furniture, building materials, food and school supplies. Together we look forward to bringing more awareness to reuse and encouraging austinites to railroad question use items when they need a new item or to start a creative endeavor. Please engage us for the international conference, reuse connects 2014, next week, october 23rd through the 25th, at the austin holiday inn midtown. The city of austin is co-hosting this conference with numerous partners in reuse, including austin creative reuse, goodwill industries of central texas, habitat restore, resourcecity and treasure city thrift. This will bring over 100 reuse advocates to austin for networking and learning. There are several opportunities open to the

public at reuse connects. On thursday october 23rd you can join us for the ultimate upcycle challenge and on friday october 24th for the reuse fashion show and the screening of the documentary reuse because you cannot recycle the planet. You can follow along with us online with the #reuseatx and thank you again to the city of austin for this proclamation and the recognition of the value of the power of reuse.

[12:20:35]

[Applause].

[12:47:39]

>> Mayor Leffingwell: We are out of recess. Council, if there's no objection I have a request to take up item 60 now. The speakers have decided they would not speak except for perhaps one. Without objection we'll go ahead and take up item number 60 here. Mr. Spelts, I understand you just wants to make a brief remark?

>> Mayor, thank you, and mayor pro tem, members of the city council, mr. Assistant city manager in that regard.

>> Mayor Leffingwell: I don't think you're on.

>> It microphone is not on.

>> Mayor Leffingwell: They're stingy with the volume and here.

>> I believe bob cole provided this mic is the problem. [Laughter] okay. Is the mic working now? Okay. Thank you very much. I appreciate you calling that to my attention. My name is neal spells and I'm here to speak in favor of this. You heard all our presentation on MAY 22nd. We went through everything then. We presented packets of material. We showed you a video with about five, six citizens who spoke in favor of it. And it has background information on mr. Mathias' information on the beautification of town lake, his role, his activities there. And it had broad community support. And what I think may have been unprecedented. We have nine former mayors who have worked with and associated with vic mathias who supported this effort and we presented those signatures to you on may 22nd in that regard. And you referred this matter on may 22nd to the parks board. And so we went to the parks board, went first to their committee and got out of there after another full presentation that we presented to you, and got no dissenting votes and they deferred it on to the full parks board. We went before the full parks board, again with the full public hearing posted and announced and presented again our presentation to them. They had one other person speak up in favor of naming it for stevie ray vaughn and then after that the parks board voted unanimously 7-nothing to recommend to you to approve the naming, renaming of the east lawn portion of auditorium shores as vic mathias shores. So in deference to your time and, my goodness, my hat's off to all you folks to sit here and go through day after day council meetings that run long. So even though we brought the video back again, we have a large number of people here who are in support of and who signed up to speak, we will forego all out of deference to your time in this regard and ask you simply if -- respectfully request you to go ahead and follow the recommendation of the parks board. And rename the east lawn portion of auditorium shores as vic mathias shores. And that would wrap up our



presentation right now since you had the full load before. And no sense repeating it in deference to your time.

[12:50:53]

>> Mayor Leffingwell: Thank you, Neal. Could I just ask all the friends and family members who are here in support just to stand up or raise your hand, whatever you're more comfortable doing? Okay. Thank you all very much.

>> Cole: Mayor?

>> Mayor Leffingwell: And I understand that David King does not want to speak now and those will be all of the speakers except I know one member of the family wants to make a brief remarks, very brief remarks after we take action. Mayor pro tem.

>> Cole: When this item came up previously, I had heard last minute rumors at the character of Mr. Vic Mathias. And with so little time to consider those accusations I made the motion to send this through the normal naming process and solicit the input from the parks board. I'm very happy to say with several months to review this that none of those rumors have been substantiated. While family and friends already knew this, I believe that the public now has greater confidence in this naming choice. It's unfortunate that family and friends had to defend against something that did not take place. And I appreciate the advocacy of a former mayor Gus Garcia and Ms. Ada Anderson. And I hope that the friends and family will take this satisfaction in the lasting honor bestowed upon Mr. Mathias by this grateful city. Mayor, I move approval.

>> Mayor Leffingwell: Mayor pro tem Cole moves the public hearing

-- to close the public hearing and approve the ordinance. Seconded by councilmember Spelman. Any further comments? All in favor say aye? Opposed say no. It passes on a vote of seven to zero.

Congratulations. [Applause]. And I understand you want to make a few remarks on behalf of the family?

[12:52:59]

>> Thank you, Mayor, Mayor pro tem. I'm Matt Mathias, Vic's son. And I know this is normally out of order and I appreciate it. I appreciate your consideration of this and I want to thank you because this has been a very humbling experience on a lot of levels. My father was a humble man. He always wanted to give credit to the volunteers who ran all of the different organizations from the rodeo to the aqua festival. It was always volunteers and he never took credit and it would be very humbling for him and he would never expect it. I've had people describe him as the father of festivals here because of the aqua festival that ran 34 years on the shores of Lady Bird Lake which you see us all wearing our one dollar skipper pins that would get you in for 10 nights. How things have changed. [Laughter] and an article was recently written calling him the grandfather of high-tech in Austin for his recruitment efforts for that. But none of that really mattered to him. What mattered to him was being a gentleman and what's that I've heard my entire life here in Austin when I introduce myself someone who has been here awhile they say are you Vic's son? He was such a gentleman and they tell a story. That's what I've heard all my life. I want to read just two sentences that he wrote because he wrote hundreds of articles about Austin and they're worth reading, I promise you. It's history come alive. He wrote this in March 2011, which was

just shortly before his death in 2012. January 2013. He said it's been a great life. A number of years ago I told my three kids that they better study hard, work hard, and probably because I wouldn't leave them a lot of this world's goods, but I also told them that I wanted to leave them a good reputation. I did not want them to have to overcome a bad family name. I told them that my formula for keeping a good name was simply

[12:55:01]

this: Always keep your word. And tonight you've memorialized my father and a member of this community and his reputation and I thank you very much for that. Sheryl, thank you especially.

>> Mayor Leffingwell: Thank you, matt. [Applause]. I just want to say I didn't know mr. Mathias when he was doing all the

-- all those great things for the city of austin. I met him much later when he became involved late in his life, in his 80's just a few years before he passed away, in a program called honor flight austin. And he basically picked that program up, went out and made sure that we were able to raise the money, got it started again, and with his help the last time I saw him was at a meeting with a group of pearl harbor veterans on december 7th, just a few months before he passed away. And he was working away honoring those folks and encouraging other people to support that program. So to the very end he was a great citizen of austin and I appreciate him. Thank you. All right. So let's put this back into normal order. We'll take it off the table, item number 38, was it? Councilmember morrison had the floor.

>> Morrison: So I wanted to remind you that last

-- at second reading I had brought up something that I think was unintended, it was clear it was unintended the way it was written and we had in the ordinance something that said a tnc shall implement a zero tolerance policy on the use of drugs or alcohol by drivers. And really it wasn't meant to keep anyone from drinking a beer on sunday afternoon while you were watching a cowboys game, it was really meant, and we got it clarified, tnc shall implement a zero tolerance policy on the use of drugs or alcohol by drivers who are driving passengers obtained through the use of a tnc app. That's number 15. I think that

-- I noticed another item that is somewhat ambiguous in that regard, and it's in b-13. The other one was 12. And what it says right now is it a tnc driver may not drive for more than 12 hours within any 24 hour period. And I think we really mea that a tnc driver may not drive for hire for more than 12 hours within a 12 hour period. I don't think it was meant to preclude somebody from deciding that they want to drive nonstop on vacation from here to san diego, which would be more than 12 hours. So I have a suggestion to qualify that and it says a tnc driver may not drive for hire for more than 12 hours within any 24 hour period and then of course if we say drive for hire we mean we need to define that. Drive for hire is defined as offering making available or using, and then, a, a vehicle to provide a transportation network service, including any time when a driver is logged on to the transportation network company's internet enabled transportation or digital platform showing that the driver is available to approximate pick up passengers. When a passenger is in the vehicle, when tnc's records show that the vehicle is dispatched or when the driver has accepted dispatch and is in route to provide transportation service to a passenger. And secondly another issue came up and that is, we have other limits, say, on taxi drivers and other drivers for hire that have the 12 hour limit and we're not mean, I don't think anyone is meaning to

allow someone to drive a taxi for 12 hours and then in the same 12 hour period transfer over to a tnc to drive so that they're effectively driving all 24 hours. So the b section here says a ground transportation service vehicle or operating ground-- this fits into the language. A ground transportation service vehicle or operating a ground transportation service as defined in the code 13-2, which is ground transportation passenger services. So that picks up to make sure that cumulatively all driving for hire is limited to 12 hours in a 24 hour period independent of whether you're doing a taxi or other chauffeur services or tnc. So my motion is to clarify this to make sure that we're not limiting drivers who aren't -- who are drivers, but aren't in the process of driving for hire. So this would be -- I'd like to offer it as a friendly amendment. As it is, I think it needs some clarification and worked with staff to get some clarification.

[13:00:23]

>> Mayor Leffingwell: Councilmember riley. [One moment, please, for change in captioners]  
>> Morrison: I will ask our legal staff to let me know if they agree with that but I talked with them about that. It said tnc  
-- this is the end of the draft ordinance as it sits right now, a tnc driver may not drive for more than 12 hours within any 24 hour period. So does that mean  
-- I took that mean that I can't go on a road trip and drive all day and night?  
>> Yes, ma'am. That's how it currently reads and the amendment as being discussed right now lifts the definition  
-- that first definition from the houston ordinance and just to clarify what driving for tnc entails, and that's where we lifted that language from. And I can't remember the second part of it.  
>> Morrison: The second part was to make sure it was cumulative driving for hire no matter if you are driving for a tnc or driving for a taxi?

[13:02:26]

>> Yes, ma'am, that includes other ground transportation.  
>> Morrison: Right. Right.  
>> Riley: Mayor. Mayor, I  
-- I appreciate the point, but what I think this is getting at, I think it reaches a little far. If we were talking about actually limiting the time when someone is actually driving, if we are putting a  
-- driving a vehicle, that would make sense to me but right now it says in this ordinance drive for hire is to find as offering, making available, or using a vehicle for any of these purposes, even if you are just logged on and not using it. I think  
-- if  
-- if we simply said  
-- in this ordinance drive for hire is defined as driving a vehicle and so on, any of these types of vehicles, that would make more sense to me, because that's really where we are getting at. But if you are driving one of these vehicles for more than 12 hours, it's probably not that safe but I am not sure  
-- if you are just sitting at home or sitting in a cafe or whatever, I am not sure you are posing a risk. The

mere passage of time with the app on poses the same risk that we are trying to get at. So if we can just limit it to

-- limit the time limit of actual driving as opposed to offering or making available the other, it makes more sense to me.

>> Morrison: Mayor, if I could.

>> Mayor Leffingwell: Go ahead.

>> Morrison: I think I get your point, and I think the challenge here is that there is sort of the passive use with the act being on as you are

-- with the app being on as you are talking about, so it's on and it would be caught in here and there is going to be other times where they are sort of actively engaged and they've dropped someone off and they are waiting for another one and we don't have any way to measure that but I guess I wanted to ask in terms of the taxi industry is

-- where does that fit? Because if they are just waiting for a fare, I wonder if that counts for maybe

-- carl could answer

-- maybe carl could answer that. So is it just when a taxidriver is like turned on his car and moving? Or she? Or how do we measure when

-- their hours of driving?

[13:04:52]

>> They actually go through a process of booking into their system and as

-- while the entire time they are booked in, if they are staging at the airport or a cab stand, as long as they are booked in and available to offer trips, that counts as activity  
-- driving activity.

>> Morrison: I wonder# I can ask somebody from the taxi industry

-- and I don't know if it's you or a taxidriver, but do you have a sense when they are booked in? I am sure it's all over the map, how often they are actually engaged with the passenger, versus out of the whole time they are booked?

>> Yes, ed cardboard with yellow cab austin and your instincts are right, it is a relative amount of time where they are booked and actively engaged with the customer and one step further, our system actually allows a driver to be booked in and sitting in their living room or a restaurant. There is a remote control that's connected to the cab system, where they can get a request for service and respond so you would have the issues with time when they are actually working which are considered in passive but they are engaged and active in the system and available for service, and that time counts towards the 12 hours.

>> Morrison: Okay. That's interesting information. I didn't realize that, so for the taxidrivers, it actually counts whenever they are booked in?

>> Correct.

>> Morrison: So to be equivalent, it would need to be the language as it is here?

>> Mayor Leffingwell: Council member riley.

>> Riley: I think this may then go to the difference between the two models, between a professional corps of full-time drivers, as OPPOSED TO RELYING ON

-- ON Private citizens who aren't necessarily professional drivers who are helping out, especially at peak demand periods. I am curious if  
-- if this issue has come up  
-- if the company representatives could speak to this. The general question of the limit, and if y'all  
-- it looks like it might not have, because I don't see anybody stepping forward, but I would also  
-- I would also like to ask the transportation staff a question about mechanically, how this could work.  
Do you want to speak to that?

[13:07:04]

>> So -- could you restate it.

>> Riley: The question is we don't want anybody to be driving more than 12 hours in a 24-hour period. The question is, how do we measure that? If someone is logged in to the network

-- they have the app in and logged in but there is no way to

-- they are not carrying passengers, are they logged in those hours?

>> Any time you are logged in, you are logged in, not when you are participating.

>> Riley: When you logged in and available then they would

--

>> yes, it's being measured. Even if sitting on the couch you cannot be logged on more than 24 hours. With lyft you have to take a 8 hour break.

>> Riley: So the company self-imposed that. SO IT SOUNDS LIKE yWW Wouldn't have a problem with an amendment like that? I understand uber is in the same boat, unless anyone wants to correct that. Okay, then this works fine, then that

--

>> Mayor Leffingwell: Being logged in on the couch, it's very tiring. [Laughter]. Council member you accept?

>> Riley: Yes.

>> Mayor Leffingwell: So that's the end of the motion.

>> Morrison: Thank you. And then

--

>> Mayor Leffingwell: So that's a friendly motion.

>> Morrison: Okay. We also had a friendly conversation last time

-- and I appreciate the help from everybody. We had

-- and I am afraid

-- let me see if I can

-- in paragraph 16, there was a requirement to do outreach events, and I forget what the original language was, but it was not explicit enough as it was to

-- actually I understand who the outreach was supposed to be to and what the goals of the outreach were, and so it GOT CLARIFIED IN NUMBER 16Ñi For

-- for accessibility, ada compliant vehicles and all of that. So I appreciate that. I also had brought up that number 17 had said a tnc shall conduct outreach EVENTS TOÑi MARGINALIZED Communities and report back to the city. We changed "marginalized" because I asked leah what that meant, to underserve but

couldn't come up with a goal. In the interim, two things have occurred to me. I think we really need a goal. But the other question I started wondering about is: WHAT DO WE MEAN BY Underserved? Do we mean people who are underserved by public transportation options? Do we mean people who are underserved by

-- I mean, there is a whole sector of underserved people. We have people who are underserved by the medical community, by grocery stores, by internet access, and so I thought it would

-- maybe we would be able to figure out what the goal was if we could crystallize what underserved community we really mean, and so I just put that to my colleague to maybe help because I think this is such a blank statement here, I think we need to get at the matter that we are really trying to get to.

[13:10:11]

>> Mayor Leffingwell: Council member riley. Riley: And actually, I believe that this is something that mayor pro tem had asked me to include.

>> Cole: Yes. We received testimony from

-- I think it was lyft last time that underserved meant underserved portions of the community that did not have cab services. I think it was out of chicago.

>> Morrison: Okay. I wonder. Could we ask staff about that? Because I thought everybody had taxis in the

--

>> Cole: We are talking about service within a particular area of town, underserved areas of town, is my understanding.

>> Morrison: It is my understanding that all areas of town in austin are required to be served by our franchise agreements?

>> That is correct, council member.

>> Cole: So what is your question?

>> Morrison: So apparently there are no underserved areas, no areas that are underserved by taxi service. Would you say that's true?

>> It has not been brought to our attention that there are any geographically underserved areas in the city of austin.

>> Morrison: Do you know about chicago, is it different there where there really are

--

>> I do not.

>> Morrison: Okay.

>> Cole: You can ask a company representative.

>> Morrison: Okay.

>> In terms of underserved, we were

-- we were mostly focused on areas that were both underserved but also those areas that don't have as much access to transits will tend to be from lower socioeconomic groups, and so it was important to us that not only were we recruiting drivers who could get flexible supplemental income but also we were providing them with more transportation opportunities because on average lyft is 20-30% less expensive than a traditional cab, so we wanted them to have access to this, and so what we did was we partnered

with the community based organization, called the urban league, which is a national organization but they are south side chicago chapter, and we worked with them to recruit drivers in that community that could provide increased access, so even though it is a part of our terms of service that you cannot discriminate based on any protected class, including socioeconomic class, we wanted to be sure we were increasing outreach to communities that were socioeconomically underserved.

[13:12:22]

>> Morrison: So it sound like maybe something could be crafted from that, sounds like underserved by transportation options and potentially maybe we want to specifically mention lower income neighborhoods but I

-- I

-- I am just looking for something to clarify this.

>> Cole: Mayor.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: I think we can simply add language to the respect of areas are considered underserved, that they do not have adequate supply of transit options.

>> Morrison: Well, that means they are going to be the entire west austin.

>> Cole: And lower socioeconomic strata.

>> Mayor Leffingwell: All right, well, what is your proposal, council member?

>> Morrison: Okay, so I guess I would like to take mayor pro tem's recommendation that we say

-- that explicitly say "underserved --" by underserved communities

-- "underserved communities are those that are

--

>> Cole: Of lower socioeconomic

--

>> Morrison:

-- Without transit.

>> Cole: Without adequate transit.

>> Morrison: Without adequate transit options, and then the goal would be.

>> Cole: To increase.

>> Morrison: To increase access.

>> Cole: Access, transportation options.

>> Morrison: Okay. That's my motion.

>> Mayor Leffingwell: Council member riley.

>> Riley: Okay. I will take that as friendly.

>> Mayor Leffingwell: You do?

>> Riley: Sure, it is modifying the language.

>> Mayor Leffingwell: Mayor pro tem accepts it also, so that's incorporated into the motion.

>> Morrison: Thank you. And then two more. There are a couple of lines in our code for taxis that I think are important to include in here, and it's about compliance, and let me pass them out here. It's in section 13-2-71 and 13-2-72, that basically say that taxi franchises are required to comply with all

applicable federal, state, and local laws, and then the second part is that  
-- is that the franchises are required to  
-- let me see. I have it right here. To ensure that  
-- here it is  
-- establish and enforce policies requiring compliance with this chapter by drivers employed by our contracting one. And that one is important to me because I know that we have something in the ordinance that says the tnc shall provide a training course, but I think that just to wrap things up, we should make sure that that's  
-- they enforce the policy of taking the training and all of that and so this translates the sections to the tncs, and it says two things  
>> . A tnc shall comply with the provisions of the tnc's agreement and applicable federal, state, and local laws and rules; and then secondly, a tnc shall establish and enforce policies requiring compliance with the applicable provisions of this ordinance and agreement by drivers who contract with the tnc. So I think there is  
-- it is just a matter of making sure THATq WE ARE MAKING SURE

[13:16:07]

[Indiscernible] and hopefully people don't have a problem with this because that's the expectation.  
>> Riley: Sure and I note that the expectation is that the ordinance would be to the agreements which typically would include things like this but I have no problem spelling it out.  
>> Mayor Leffingwell : Mayor pro tem.  
>> Morrison: Thank you.  
>> Mayor Leffingwell : So that's incorporated into the motion.  
>> Morrison: And then the last one, I want to talk about add valorem  
-- ad valorem tax provisions. We had a quick discussion about it last time and our attorneys explained to us that the cars themselves that are being driven, there is a state law that they must  
-- that the ad valorem tax must be paid on those cars. Is leela here? Hi. Can you run through the state requirements about why these cars, even though they are personal cars are required to pay business tax?  
>> With the caveat that I am not their attorney.  
>> Morrison: Sure.  
>> But the way that I read the statute, vehicles for HIRE ARE REQUIRED TO BEñi Rendered to the central appraisal district as business property for tax purposes.  
>> Morrison: Okay. And those taxes, who do they go to?  
>> Well, they go to the government entities that receive taxes from the central appraisal district's collections, so in travis county that  
-- I believe that's at least the county and  
-- and the city.  
>> Morrison: Okay. So we are talking about tax revenue  
--  
>> just like your house.



>> Morrison: Just like my house.

>> Just like your house

-- I mean it's like any other business property.

>> Morrison: Right. Okay. So then the question becomes how does the tax appraisal district know that these CARS AREÑi BUSINESS PROPERTY And are you familiar with how it happens in the

-- say, in the taxi industry? I know mr.

-- I talked earlier to someone and he was prepared to talk about it.

[13:18:31]

>> I think it would be better to talk about how they do it.

>> Morrison: Okay. Mr. Carboux, would you like to speak to your experience?

>> I certainly can. Ed carboux with yellow cab austin and the deal is the taxes be collected and paid and so what we do in the industry is assist with the calculations, the county puts out the rate. We assist with the collections based on the information about the vehicle and as that

-- as those funds are collected, we be sure the county gets paid all of the ad valorem taxes due to the county.

>> Morrison: And probably with the tnc they are going to be a little different because they are not full-time cars and all of that, but I think the

-- I did talk to the chief appraiser and, you know, the big problem really is, for her to know which cars those are so that she can send them a tax bill. You take care of it for all of your drivers?

>> Yes, I think the good thing about the tncs is they would know every car who is participating. They could actually go through the same process that we go through. They collect every dollar that's maid into their system anyway, and so

-- that's paid into their system anyway so in the way to calculate a account for the ad valorem taxes, they can be sure they are paid to the county properly and on time.

>> Morrison: Well, thank you for your suggestion. I have another suggestion. [Laughter]. No, that's all right. You can go ahead and sit down. Because when I talked with the appraiser, she said

-- AND I JUST PASSED OUT ANw3 Email that she had sent to me. It's the district's position that by requiring the driver to sign up online, that puts the driver under the management of the online company, and, therefore,

-- and the property tax code requires that anything under someone's management needs to render that property

-- by rendering, it means they need to send a

-- they need to send a list of all of that property and who it belongs to, and then if she has that list, she said that's the problem. She needs to know what that list is, and then she can send a tax bill directly to the

-- to the car owner, so, in fact, what mr. Carboux was mentioning is way beyond what I am going to suggest and what I am suggesting is merely in line with the state law and the district's position that they are required

-- that the tncs themselves are required to render

-- ie, submit a rendition form so my motion

[13:21:17]

is this: It would add a statement stating the tnc must provide documents

-- documentation that any property used as a vehicle for hire by any person driving for the tnc has been rendered annually for ad valorem taxes. So this doesn't ask them to prove they paid the taxes. It just asks that they prove that it's been rendered and our appraiser thinks that they are responsible for rendering, but, you know, whether or not, you know, someone might disagree with that, I don't know, but our interest is that we get the tax revenue and does the state get the required tax revenue. This is a light touch. It says prove to us that you have rendered

-- that all of the cars have been rendered.

>> Mayor Leffingwell : They just render it to the driver?

>> Morrison: No, they would render, ie send a list

--

>> Mayor Leffingwell : Render to it the tax collector.

>> Morrison: Yes.

>> Mayor Leffingwell : And the tax collector sends a tax notice to the driver?

>> Morrison: Correct. So it would be different than what we heard from mr. Carbox about paying the taxes.

>> Mayor Leffingwell : I assume if you have a car and you use it 15 hours a week for hire, you would prorate that, just like business use of a personal vehicle, you wouldn't have to pay tax on the entire vehicle or just mother of it?

>> Morrison: Well, mayor, I think we ought to have our legal staff talk to us about that because my understanding is that that's not true. I don't know, whatever the law is.

>> I am not really their attorney to answer whether it's prorated or not.

>> Morrison: So whatever the law is would be what's done. All this does is merely requires that we have confirmation that all of those vehicles have been rendered, so whatever the tax due is, we will make sure that we get our legally due revenue

-- tax revenue. Thank you, leally, I didn't mean to put

-- leela, thank you, I know you are not their attorney.

[13:23:39]

>> Yes and I am not an expert of how they need to reason der their property. I just know they need to. Counc counc il member riley.

>> Riley: A quick clarification, what would that documentation look like?

>> Morrison: I wish I had enough copies but I have a copy of the rendition form here. The tax appraiser provided it for me. And it's confidential by the way, so it's business/personal property rendition of taxable property, property tax form 50-144, and it's a list. So they fill out some identifying information and then a list of the property, property address, where taxable, a property owner.

>> Riley: So I assume it would be up to the individual property owner to render their vehicle to the appraisal drbáric. Is that right?

>> Morrison: Well, if our appraiser

-- it's our appraiser's opinion they need to do it but I don't know who needs to do it. But what this amendment does is asks the tnc to prove to us that they have been rendered. I don't care how it's been done

>>

>> Riley: So you are saying that the company that

-- the appraisal district's position that the company would be in the position of a manager of all of the drivers, and, therefore, it would be up to the company to provide a list of all of the vehicles to the appraisal district and then provide documentation

-- provide that documentation to us showing

-- for instance, send a statement to the appraisal district saying, here are all of the

-- here are all of the uber vehicles, and cc us on that documentation. Okay. And even though

-- I guess I am a little puzzled about how that's going to work

-- it is supposed to be confidential

-- but I see an individual from uber stepping up. Would you like to address this?

[13:25:45]

>> Yes, so the ad valorem taxes, it is a requirement of the property owner, which is the driver. The driver is independent contractors. We don't own any of the vehicles. We don't employ any of the drivers. It's merely for the intents of

-- business intents and purposes, it is a software platform that connect driver and rider, and so we do not have the ability to impose UPON THE DRIVERS THAT THEYq Should

-- it's the responsibility of the driver to be doing it, but, yes, ad valorem is something that they should be paying at the state level.

>> Morrison: Mayor. Counc council il member morrison.

>> Morrison: So our chief appraiser disagrees with you and I will read the whole statement. She says, section 22.04a would be the property tax code section that requires them, the tncs, to list the name and address of each property

-- of each owner and property that is in his possession or under his management on january 1. It is the district's position that by requiring the driver to sign up online, that it puts the driver under the management of the online company. Now, so I

-- what I have crafted doesn't get into that. All we are asking is that you somehow prove to us that all the property has been rendered. And whether that's from the driver

-- the driver did it or you all did it, you can discuss with the appraiser if you disagree but that's not the discussion right here.

>> Yes, I think the difference is independent contractor, simply employee. Your definition is a manager requiring them to go online but we are not requiring anyone.

>> Morrison: Well, she knows what we are talking about and it is her position that you are required to do it and whether that has to be sorted out and you guys can discuss that, that's fine. But I didn't want to get into that. I thought you might say that. I didn't want to get into that. What I do want to do is assure that we are getting the tax revenue that we are due because if we don't put something in place

to ensure that we get that tax revenue, we are effectively subsidizing this industry, and that's not right.

[13:28:05]

>> Martinez: Mayor. Council member Martinez.

>> Martinez: So if according to tncs, if it is the driver's responsibility, would it be appropriate to add language that says the tnc driver must provide documentation?

>> Morrison: Well, since I didn't know whose responsibility it was

-- I didn't want to get into whose responsibility it was. I thought that

-- I mean, they could require the driver to provide documentation to them and they can collect it all and provide that documentation collectively to us.

>> Martinez: For all intents and purposes, it doesn't matter who renders it, whether it's tnc or the driver, it's still going to be up to the chief appraiser to enforce it, if you will, or

--

>> Morrison: Collect the taxes.

>> Mayor Leffingwell : The tax collector, not the appraiser.

>> Martinez: I am sorry.

>> Mayor Leffingwell : Tax collector.

>> Martinez: This email was from

--

>> Morrison: It is from the appraiser because she is in charge of putting together the database of what should be taxed, right.

>> Mayor Leffingwell : Right.

>> Morrison: She said her problem is that she has to have some assurance that everything is reported to her. I don't care who reports it. I just want to make sure there is a way to check to make sure it's reported.

>> Martinez: So can we get to the same conclusion if we just added the word "driver" after tnc?

>> Morrison: Possibly. Let me see if

-- does some of our staff

-- is some of our staff familiar with the Houston ordinance? Leela, I think you checked on this for me, I think in Houston, there is a general thing that says

--

>> in Houston there is a requirement in their city code that just says that

-- and it relates to all of the vehicles for hire and requires them to be rendered. So it's a little bit different, but I think the ordinance that we are working on right now is something to enter into in an agreement with the tncs so it was my understanding that's why you had phrased your motion, to be consistent with the other portions of the ordinance that

-- that govern our relationship with the tncs.

[13:30:15]

>> Morrison: So -- so if I may, mayor

-- council member MARTINEZ, IFÑi THE TNC

-- SO We are doing the agreement with the tnc and they could provide documentation either that they rendered it or THAT THE DRIVER RENDERÑiED IT The way this is stated, but since we are having this with the tnc and not with the driver

-- I don't care how it's rendered. I just want to make sure it's rendered.

>> And I have the language from the houston code if you want that, but if you don't need it, that's okay.

>> This is similar in that they be rendered and that they get documentation that everything was rendered?

>> Correct.

>> Cole: Council member riley.

>> Riley: Excuse me, what did you say?

>> The requirement says that no person shall use the streets of the city for the operation of the vehicle for hire unless the ad valorem taxes due and owing on all property used as a vehicle for hire shall first have been paid.

>> Riley: Okay. And that's just a provision in their

-- their whole chapter, if you will, for all vehicles for hire.

>> Riley: If we are talking about entering agreements with the companies, then we could require in those agreements that the companies inform all of the drivers that it is their responsibility to render vehicles to the appraiser? Since we are talking about a agreement between the company and the city. Here we are talking about the responsibility of the individual driver.

[13:32:16]

>> Well, I think as council member morrison has said, that that's the position of the companies, although it's not the position of the central appraisal district. So there is a disagreement

-- a legalities agreement there regarding regarding --regarding whose responsibility it is.

>> Riley: When I am looking at the section of the

-- of the

-- of the code, the tax code on which the appraiser is saying, 22.24 of the tax code it says report [indiscernible] or pos

-- when required by the chief appraiser, the person must file name and address of each property that is under his possession or management by an agreement or lease assignment or arrangement. I have a hard time seeing how these vehicles would be in the possession of the company, given we are talking about personal vehicles of independent contractors.

>> I think she is looking at the phrase "under his management."

>> Riley: And I can see where there would be a disagreement about that because this doesn't strike me as a model under which those personal vehicles are under the management of the companies.

>> And I am not the attorney

-- I am not also the attorney for the appraisal district. [Laughter]. But I am sure their lawyer will have an argument and a discussion with the tncs regarding whose responsibility it is to render.

>> Morrison: Mayor.&Ñ

>> Morrison: Since this may well be a very complex legal thing, I thought this could be graceful. I don't

care who has to render it, I don't care what MANAGEMENT MEANS OR DOESN'T Mean. I just want to make sure the taxpayers of austin get the revenue that's due and the only way we can do this and cite stuff

-- I don't think it would be appropriate for us to weigh in explicitly

[13:34:28]

who we believe: The appraiser or the uber lawyers. I think what this does is it says just provide us documentation. We don't care where it came from, that everything was rendered.

>> Riley: Again, I am trying to get at what that documentation would look like. It would be

-- are we talking about actually PROVIDING A LIST OF Vehicles

-- and we are talking about on a form which I think you noted was confidential.

>> Morrison: Right.

>> Riley: This this would be

-- and obviously reported to the city, it would be a public document, that there would be

-- that the company would be in the position of providing a list of all of the vehicles to the appraisal district.

>> Morrison: Well, it would

-- I would assume that we would be able to work out with the appraisal district something

-- not that says every, you know

-- that lists all of the vehicles and all of the personal information, just that, you know, they have

-- and I am just making this up on the spot, something that gives us a feeling that they have rendered

-- that all of the vehicles have been rendered, a certain number of them

-- they can tell us a certain number of them rendered and they can check. Audit can check later. Does that number match the number that are signed up, for instance. So there are ways of doing it without knowing the explicit information that would be confidential and we want to obviously work with the lawyers to make sure that whatever got worked out FOR THAT DOCUMENTATION WAS Fully respectful of the confidentiality that goes along with the rendering. Counc counc il member martinez.

>> Martinez: So leela, if this is texas property tax code, whether this ordinance explicitly states or is silent on this matter, that tax code still applies, does it not?

>> That's correct.

>> Martinez: So it would be up to the appraiser to seek the rendering of the driver or the company under the texas property tax code?

[13:36:30]

>> That is the appraiser's responsibility.

>> Martinez: I understand the intent, you want to put the language in there to make it crystal clear but it's state law and it must be complied with whether we have explicit language or not.

>> Morrison: Mayor. Counc counc il member morrison.

>> Morrison: It goes to a higher level because we are talking about revenue that goes to our general fund. We are talking about revenue that will go in and support the police force and all of that and I think

it would be important to have some assurance that we are getting our due revenues as well as the county and aid and whoever else.

>> Mayor Leffingwell : And can I just clarify that this

-- we are talking about documentation that's provided to the city about items that were rendered. Does that create a conflict there since this is a confidential document? It seems to me this is a transaction between the tnc and the driver, and I am having a hard time seeing having the city as a party to that.

>> I don't know that it creates a conflict. I think as council member morrison indicated, that we would need to be careful in crafting the language so that we do not create an obligation to reveal information that is confidential.

>> Mayor Leffingwell : It is a confidential document that the tnc sends to the tax appraisal office and then they also give it to us, then it's not confidential anymore, is it?

>> Well, I don't know off the top of my head because there are certainly some documents, for example, that are confidential by law that are protected from being released under the open records act, so that's not necessarily a straightforward question, that turning over a confidential document to the city doesn't automatically waive the confidentiality, although I would think we would need to be cautious.

>> Mayor Leffingwell : I am just curious. Has the tnc abrogated the confidentiality of the rendering by sending it to the city?

[13:38:38]

>> Well, I don't know what they would send us in order to comply with the requirement that council member morrison is requesting. I don't know whether they would actually be sending us confidential information or some

-- or whether we would be able to work out something that would summarize in a way that doesn't reveal the confidentiality. And this is a confidentiality that applies to any business property so that a business' processes and machinery and things like that are not necessarily made public.

>> Mayor Leffingwell : Right, and there is all kinds of business property in the city of austin. Do we get documentation on the renderings by those companies to the tax appraisal office on their property, or is this a unique thing we are talking about doing?

>> I don't know the answer to that question.

>> Mayor Leffingwell : I am just

-- I kind of would be more comfortable with what I think council member martinez was saying, in that this is the law. They are supposed to comply with the law. And it's their responsibility to do it and I am having a hard time seeing why we should be involved in that process at all.

>> Morrison: Mayor. Council member morrison.

>> Morrison: I just have to

-- I just have to respond to what you said. You said this is the law. It is their responsibility to do it.

>> Mayor Leffingwell : Right.

>> Morrison: Our appraiser disagrees with that. So I don't think that it's appropriate for us to get in to the legal discussion or take a side in that legal argument and think that that would be

-- I think that would be very inappropriate.

>> Mayor Leffingwell : Well, I am not going to give anybody legal advice, especially since I am not a

lawyer. But I would say "i think that's what makes sense to me. It makes sense to me we would expect them to follow the law and not get involved. That's my opinion. My opinion.

>> Morrison: It is your opinion that you expect them to follow the law.

>> Mayor Leffingwell : Yes.

>> Morrison: I expect them to follow the law. I think following the law is a great idea.

[13:40:40]

[Laughter] in fact, I have to share with you

-- [indi [indi scernible]

>> Morrison: Right. But the law is under discussion and for us to put in our ordinance a

-- you know, something that

-- that chooses a side in what might be an undecided legal discussion, I think is entirely inappropriate. It is not clear if they are supposed to redo it or the tnc is. Our appraiser says the tnc is.

>> Mayor Leffingwell : I wonder if we are going to be going all over the city and looking in offices and businesses and seeing if they paid their ad valoremçó taxes on their computers and their desks and their chairs and all of that stuff. It seems to me that that's what we are doing here. We are doing something special with the tnc that we are not doing to other people who equally have to follow the law.

>> Morrison: Thank you, mayor, but this is a new industry. I think that it

-- we are talking about nontrivial tax revenue and I think to put in some assurances and obviously our attorneys would work on finding an appropriate way to identify that documentation so that we can make sure we are getting the tax revenue.

>> Mayor Leffingwell : Okay. So have you proposed this as a friendly amendment to council member riley? Morrison: Sure.

>> Mayor Leffingwell : What does council member riley say?

>> Riley: That is not friendly.

>> Mayor Leffingwell : It is not friendly. [Laughter].

>> Morrison: You don't look like it's friendly.

>> Riley: Mayor, I would be fine with requiring that tncs to inform their drivers about the law. But I don't think

-- we don't typically get in the business of policing compliance with state ad valorem tax law. That's not

-- I don't know why we would be singling out this

-- it's almost like we are punishing them for providing a service. We've already added provisions elsewhere in the ordinance to cover the cost of administering the ordinance, so this is just a matter of wanting to extract additional revenue from

-- from an industry that is offering a new transportation service to the city and I just don't think that's something we need to be getting into. I think it's

-- it will be helpful to have the tax revenues that we are entitled to but I don't see why we would go beyond what we do with any other business to make sure that

-- that all of

-- all of the

-- that they are complying in every detail with all of the state tax law.



[13:43:09]

>> Morrison: Mayor, if I could. Council member Morrison.

>> Morrison: Thank you. What I heard you say you would be comfortable if we had something in there entering the tncs informing the driver they are supposed to render. But our appraiser doesn't agree with that. So you are saying, I am sorry, I don't agree with our chief appraiser and I am going to put in to our ordinance the uber and lyft lawyers' opinions on this item.

>> Mayor Leffingwell : I don't get how that would be

-- how that would be against the law for uber to tell their drivers that they have to pay the tax on their vehicles.

>> Morrison: We are talking about rendering. I am talking about how does

-- how do they know that they need to

-- how does the appraiser get the role of

-- of what the

-- of what

-- what

-- where to send the tax bill?

>> Mayor Leffingwell : Do you want to propose that as an amendment?

>> Morrison: I have and it has been rejected.

>> Mayor Leffingwell : Well, I mean, okay. All right. It has been rejected.

>> Riley: Clearly there is a disagreement on whose responsibility it is.

>> Morrison: Right.

>> Riley: And I don't think we should get into that disagreement.

>> Morrison: Right. And the amendment I have completely side steps that disagreement.

>> Riley: I don't agree with that. It puts the company in a position of having to provide that documentation.

>> Mayor Leffingwell : He is a lawyer. [Laughter].

>> Morrison: And the documentation could be that their driver has shown them that they rendered the VEHICLE, SO THEY COULDN'T SAY We have checked, all of our drivers have shown us documentation that they rendered the vehicle

-- that they have rendered the vehicle.

>> Riley: I just don't think we need to do that.

>> Mayor Leffingwell : It's not accepted. Council member Tovo.

>> Tovo: I have a question for our staff. I think I heard you say that this is in Houston, tnc ordinance.

[13:45:12]

>> It's not in Houston's tnc's ordinance. It's in Houston's city code relating to all vehicles for hire. So it applies to the tnc but it applies to all vehicles for hire. It's not an obligation on a particular entity. It says: No person shall use the streets of the city for the operation of a vehicle for hire unless the ad valorem taxes due and owing on all properties used for a vehicle for hire show as being paid. So it doesn't

distinguish between tncs or cabs or limos or anything else.

>> Tovo: But it does make a specific point that it is already required by state law, they make a particular point of even siding it in their city

-- emphasizing it in their city code as well?

>> Yes.

>> Mayor Leffingwell : It requires it to be paid. I didn't hear you say anything about it requiring it to be rendered by a specific party.

>> It doesn't address the rendering issue.

>> Mayor Leffingwell : Right. It says you have to pay it. We all agree on that.

>> Riley: Mayor

-- what did it say about the documentation?

>> It doesn't say

-- it says no person shall use the streets of the city for the operation of the vehicle for hire unless the ad valorem taxes due and owing on all properties used as the vehicle for hire shall first been paid.

>> Riley: I would be fine with including a provision to that effect for all of our ground transportation services. We are not

-- I don't think we are posted for that for all of our ground transportation services but it makes sense

-- I mean, that's just saying we

-- we will follow state law, that

-- that in general, if you want to operate

-- if YOU WANT TO PROVIDE A GROUND Transportation for hire, you have to comply with state law on it. And that

-- and these are no comparable provision in our city code?

>> There is not a comparable provision in our city code. We have other provisions relating to taxes but not necessarily one that's worded like this in our chapter regarding vehicles for hire. But you are correct. I don't know that we are posted to amend our

-- that portion of our city code. It might be something that could be appropriate to be brought back.

[13:47:22]

>> Riley: Okay. I would be fine with doing something in general like that, but that's

-- that does not

-- that really does cite by not getting into the documentation. The documentation is where this could become very problematic.

>> Morrison: So mayor, if I may

-- maybe what we can do is on down the line when we do a bigger change, we could put that in generally, but I guess I would like to offer potentially a friendly

-- just having that line specifically with regard to vehicles used by tnc drivers, and I think it's a surprise to some that they have to pay and I think that highlighting it here, that taxes have to be paid and that highlighting it and calling it out specifically would be a good thing just to increase the chance that we are going to get the taxes that need to be paid that are desperately needed. So that would be my motion that we take that language

-- could you read it again? All vehicles used by tnc drivers

-- could we adjust it here?

>> Well, it

-- this is worded differently than that. So I guess I would need to hear from you exactly what your goal is, but this says no person shall use the streets of the city for the operation of a vehicle for hire unless the ad valorem taxes due and owing on all properties use of the vehicle for hire shall have first been paid. So

--

>> Morrison: So you have the vehicle for hire in there, could we put that language in but specifically identify tnc, vehicles used by tnc drivers?

>> Vehicles used by the tnc drivers on the streets of the city as operate

-- operated as a vehicle for hire must have their ad valorem taxes due and owing paid, something along that line.

[13:49:30]

>> Morrison: Right. So, say it again.

>> Mayor Leffingwell : You must pay the tax. That's all right, friendly?

>> Riley: Yes, you must comply with the state law and pay the appropriate taxes. Sure.

>> Mayor Leffingwell : You must provide your taxes or you can't drive that vehicle on the streets of austin.

>> Yes, we can do that.

>> Mayor Leffingwell : Mayor pro tem, do you accept that?

>> Cole: I accept that. Counc counc il member martinez.

>> Martinez: Just want to remind under part 12, we still have that language that talks about coming back and creating equity and so this certainly could be brought back in those recommendations as well as treating everyone the same that is providing transportation.

>> Mayor Leffingwell : Agree. Sometimes it's very disheartening that we are

-- this ordinance that we put so much labor into is only going to be a couple of months. [Laughter] all right.

>> Morrison: Mayor.

>> Mayor Leffingwell : A two-month ordinance

--

>> [indiscernible] counc counc il member morrison.

>> Morrison: The good news for people is I don't have any more amendments. I appreciate folks working through these with me. I think there were a lot of thing that is needed to be cleaned up. I caught several. I don't know if there are more. I am a layperson, not an expert, and I still think that doing this in the broader realm of making sure that we are integrating the other vehicle for hire companies and services adequately and services to all of the folks that need it would be

-- would be the appropriate way to go.

>> Cole: Mayor.

>> Mayor Leffingwell : Mayor pro tem.

>> Cole: I have a question for staff. Earlier this evening, we talked about criminal background checks and

I want to get a little more clarification about how it's done in texas, in particular in dallas and houston.

>> Yes, thank you, mayor pro tem, robert spiller director of transportation. I did want to clarify some things we said earlier to make sure that council wasn't inadvertently misled on that. First of all, I would like start here with vehicles for hire in the city of austin. Taxidriver right now, in order to go through the background check are required to obtain a dps certified background

-- criminal background record and bring in to the department and so it's actually the taxidriver that is providing the criminal background to the city for review. That's accompanied with a letter from the franchise providing an indication that the driver has their support in terms of that review. City staff then reviews that criminal background provided by the driver, based on the items that council has identified through policy, various policy directives through the franchise. That's what we call doing the background check. I want to make sure everyone is clear on that. That we don't order

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[13:52:27]

>> Cole: Driver led?

>> Well, the driver provides THE DATA ANDŃiçówkk WE REVIEW IT. So we don't call dps and order it ourselves. They bring it in. But it is a dps certified. In dallas, I want to be clear, the dallas does not have a current ordinance, is my understanding. There is a proposal from staff with regards to background checks that would essentially mirror what I just told you is done for taxis here, is that the driver

-- the tnc driver would bring a certified background check for staff review, and so being that that is similar to what we do for taxis here, that's why we called it, that they were

-- that staff was recommending that they do the background checks. Similarly in houston

-- houston treats their taxis

-- and we checked with houston before this, actually with their chief regulator by phone. Their taxi industry, my understanding, is they do the same thing. The taxidriver provides a certified background check and then

-- and then staff reviews that and then they said that is what they will do with the tnc drivers, is that the driver

-- the tnc driver will be required to provide a certified background check for review by the staff. Now, in both dallas and houston, when I say certified background check, I do not know if they use the dps certification

-- certified criminal background check, but it is a certified bang ground check. So

>> . So, you know, we said that, in those peer city

-- the city staff does the background check, what they are doing is a certified background check that is brought to them by the drivers reviewing against criteria to verify it meets their needs and it's similar to what we do for taxis here.

>> Cole: Well, earlier, when we

-- there was a motion by council member morrison that the tnc should pay the cost associated with the background check and the city will conduct these background checks. That does not seem consistent with the practice that is going on in houston and that it is being proposed in dallas, and it will be important for me to follow those models as we see increasing this issue becoming a statewide issue.

[13:54:43]

>> Yes, ma'am. In the back and forth, we thought that's what the language did, but then afterwards, what enwe consulted with the attorney,

-- when we consulted with the attorney, it seemed like the language that was passed here

-- or amended here, went further than what we thought it was, and so thank you for the opportunity to clarify.

>> Cole: Mayor, I would like to make a motion that we adopt the houston model.

>> >>Professor: Council member riley.

>> Riley: I think we are talking about 46-7-b of the code

-- 46-7, both a and b but it is different from what we are talking about, and in one regard, under paragraph b, an applicant may be provisionally authorized to drive a pernite if they are able to researched by a company approved by the director and the search discloses the applicant doesn't have convictions, it sets up the terms of the search and it says drivers required pursuant to subsection shall be required to apply to separate section within 30 days of being provisionally authorized by the perniteeo plan. In other words, the company does the initial background check and then that is essentially

-- the city has essentially 30 days to confirm that background check. Is that your understanding, mr. Spiller?

>> As I look at this, this is exactly what the houston version says. Again, those background checks, and the federal and state agencies similar to what we do.

>> Riley: When you say similar to what we do, does our checks with taxidrivrs cover federal databases?

[13:56:46]

>> Assuming -- it's not required but we assume that the dps picks up, you know, federal criminal

--

>> Riley: Is that [indiscernible]

>> carl thomas. Currently what is required is a dps or other relevant government agency. So if someone from austin were to provide the criminal background check that was conducted by the f.B.I., We would accept that.

>> Riley: Okay.

>> Mayor Leffingwell : How about a private company?

>> It's only relevant government agencies according to the current city code.

>> Mayor Leffingwell : In the houston code. It sounded like you could

--

>> what I read in the houston city code in chapter 46-7, it says each person designated as a driver in an application shall complete any forms required and directed to obtain the report and the applicant shall present the required completed forms to the director and shall bear the cost to cover any fees imposed by state or federal agencies for the report.

>> Mayor Leffingwell : But that would be up to the

-- it would be up to the director to determine what kind of a report, whether it was  
-- I am kind of  
-- in your earlier testimony, it was pretty positively, it had to be from dps, but evidently, that's not correct.  
>> Our typical  
-- our certified  
-- typical certified by dps but it could be more inclusive than that. Whate whate ver you decide is appropriate and acceptable.  
>> But it has to be a government agency, yes.  
>> Mayor Leffingwell : It does have to be a government agency?  
>> For the city of austin  
--  
>> Mayor Leffingwell : I am talking about  
-- I am trying to define, so we will know what we are voting on, mayor pro tem cole's suggestion that we use the houston code.  
>> Riley: And mr. Spiller refer you to 46-7-b of the houston code. Let me read that if you allow me to. Applicant met other requirements of this chapter, personally authorize  
-- provisionally authorized to drive per permitee if they have caused the research of the company approved by the director and such search discloses the applicant has no offenses of the applicable offense listed this sections 1-10 of the code such a search shall include a national history credit database, sex offender database and provisionally authorized pursuant to this section shall be required to comply with the requirements of section 46-6c within 30 days of being provisionally authorized by the permiteeo plan. By the permitee.

[13:59:34]

>> Mayor pro tem cole.  
>> Cole: My motion to use that language.  
>> Mayor Leffingwell : A friendly amendment to would replace the earlier language with basically replicating the houston code. That is accepted. That is now part of the motion.  
>> Morrison: Can I comment? Counc councl member morrison.  
>> Morrison: So what I like about that is that  
-- it allows the director to approve or not other ways to do it and that was my main concern of just sort of saying anything goes. There are no standards that we can, you know, accept  
-- that could be met. So you all can do research and if you think it's appropriate to use a certain company, that's fine, then I think that's a good approach.  
>> Yes, ma'am, and I believe what that does is a also allows us, in approving that applicant, in order to do INDEPENDENT AUDITS TO CHECKÑi To see if that private company who has checked meets our towards.  
>> Morrison: That's right.  
>> Mayor Leffingwell : Okay. We all agree. Yes, ma'am.  
>> One question.

>> I am curious if the amendment is to add 46-7a and b of the houston ordinance, or was it merely to include the b language?

>> Riley: So a and b together are in the section called criminal history check.

>> So aa and b are in a section called criminal history check.

>> Cole: I want tnc to do the background check and the city of austin check within 30 days. That's my understanding of how it works.

>> So I think it's a and b, the entire criminal history check piece. [One moment, please, for change in captioners]

[14:02:06]

>> I believe then the director can check other sources to verify that the applicant meets our requirements.

>> Riley: Meets our requirements?

>> In other words, if we've agreed to a background check, I don't see anything in that that precludes us from doing an independent background check so that we can test to see if the information we got was correct.

>> Riley: To be clear, the tnc will do the initial check and then within 30 days the city will confirm that audit

-- audit and confirm that check and if some adjustment of the language is necessary, I think it may be in paragraph a, if some adjustment of the language is necessary to make that work under our local system then y'all feel empowered to do that.

>> Absolutely. And again, thank you, mayor pro tem, for allowing us to clarify.

>> Mayor Leffingwell: Thank you. I think we're ready to vote on the motion as amended.  
Councilmember riley.

>> Martinez: Just one last hopefully trend friendly amendment, part 12, where the city manager wanted to seek equity for taxis. And I wanted to add other vehicles for hire so it includes shuttles and limousines, sedans, tahoes that are all vehicles for hire. And then to add a return date that it be returned

-- that recommendations be returned to council within 30 days.

>> Mayor Leffingwell: Is that acceptable, councilmember riley?

>> Riley: Sure.

>> Mayor Leffingwell: A lot of big decisions tonight. Mayor pro tem? All right. So that's incorporated into the motion. All in favor of the motion as amended say aye? Opposed say no?

>> No.

>> Mayor Leffingwell: I believe that's a vote of six to one with councilmember morrison voting no. Okay. So council, we have one item which is a discussion postponement, I would suggest that we take that up and have the discussion of the postponement only. And if we don't postpone it it will go back into regular order.

[14:04:21]

>> Mayor, we have a discussion postponement. We have a postponement request from the adjoining property owner represented by jeff howard. The applicant is represented by richard suttles

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>> Mayor Leffingwell: Hold on a second. Could I ask everyone to hold it down until you get out of chambers so we can go on with the business here? Go ahead.

>> Thank you, mayor. Good evening, councilmembers, my name is jeff howard. I represent the commercial property owner at 617

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>> Mayor Leffingwell: Hold on. You guys back in that corner, do you consider that keeping it down? Because I don't. Thank you. All right.

>> Mayor, thank you again. My name is jeff howard. I represent the property owners at 617 congress avenue. We're requesting a postponement of item number 53, which is the white lodging hotel proposed on congress avenue. As you may know there's a valid petition for this zoning proposal and I think mr. Suttles will get up here and tell you it's a very simple case. It's not a simple case. This case is unprecedented in the city. This is single most intense and most dense building in the history of the city of austin. It is 23 to one far, there's no on-site parking. Potentially no loading loading docks apparently and it's on a lot smaller than two standard city lots. This is not a simple case. It's an important case on a most

--

>> Mayor Leffingwell: Excuse me. We're arguing about the postponement?

>> Yes, sir. Because it's so important

--

>> Mayor Leffingwell: Because it's complicated.

>> Because it's so important and complicated it warrants very careful consideration and the very highest degree of input and information. What we've learned is that the city staff's recommendation on loading docks is in flux, that the city is worried about valet parking on seventh street and we're not entirely sure what the plan is for valet parking of of this massive project or how loading will occur. And so that information is critically important for you to evaluate whether or not to grant the additional density bonus that the applicant has asked for. Mr. Suttles will say that we've removed the loading dock as a request from the current zoning but that makes it even more uncertain. What will be loading dock be? What will be valet parking be? This is critical information for this council to consider before it makes a decision on what is the most intense building on this city's history. In addition, after seven months of requests, we finally on monday afternoon of this week got a proposal of an agreement with the applicant. We'd like time to review that and to be able to comment on it. We've been trying for seven months to get it. Our last letter proposal to them was sent two months ago. We get it this week. We think a time is in order and the delay won't prejudice the applicant. If we have a first reading or public hearing on the 23rd or even on the 6th if the 23rd is abbreviated, we can still come back on the 20th, we can still come back on december 11th for second and third reading. There's plenty of time for this council and not the next council to consider and act on this. We simply need additional time to evaluate the current status of the city's staffs changing position on valet parking, on loading docks, and the overall impact that this massive project will have on the area. So we would respectfully request that we postpone this item to your next council agenda, which I understand is 23rd, BUT I ALSO Understand that



may be abbreviated. We'll let you all decide when you want to bring this back. With that I'll be happy to answer any questions you have. And I believe other folks may be here to speak in support of the postponement request.

[14:08:20]

>> Mayor Leffingwell: Only one from each side. So do you have a question, councilmember tovo?

>> Tovo: Yes, I do. Mr. Howard, I think the last comment you made is you would be willing to come back next week, understanding the time constraints, but from your perspective, that additional week would be of help?

>> Yeah. We would love to visit with staff. We've asked for a meeting with staff, both transportation staff and planning staff, in order to understand where their current thinking is on the valet parking and the loading dock.

>> Tovo: Thanks.

>> Mayor Leffingwell: We have three minutes on the subject of postponement. Are you carrying the time?

>> Yeah.

>> I'm richard suttler here on behalf of the applicant. I hope we don't postpone because I'm in surge pricing mode. Any time I have to go after taxis it's a surge mode. [Laughter] I'm sorry, I can't help it. Everything that jeff has talked about tonight is a site plan related issue. It has nothing to do with the zoning case. We've modified the zoning case. We're not asking for the loading dock issue anymore. We're asking for the same set back, the cure set back that has been given to the last three zoning cases, no more, no less. Maybe we're being punished because we turned in a site plan at the same time and the site plan issues that he's talking about will be addressed as we go through the site plan phase. But this is a cure zoning case. We're asking for the same set back from congress that was codified in state law last session, that has been granted the last three zoning cases on this side of congress avenue, and that's it. The valid petition that mr. Howard talks about, 16.7% of that is a hotel across the street from us who has said they won't come off the petition because we're building too many hotels in austin. That leaves him eight percent. He's had a postponement, I've had a postponement. We got caught up in the night where we needed to cut off and we didn't think it was good to come back on that friday postponement. Two weeks ago the staff had a proposal on the loading dock and the valet issue, and we agreed that if they wanted us to go back and look at something and we said fine, we'll do it, but this case has been filed since december 31st of last year. It is a simple case. It's pretty astounding that jeff calls this the most important case and the most massive case. It's not. It's a setback case. The rest of this stuff is site plan. We hope you would hear it tonight so we know whether to keep processing or the no. Because if you decide we're not going to do the set back then this project is dead and we can stop spending money on architects and engineers. But if you decide that this set back is fair, as the council has done for last three cases, and the state legislature has said it's fair, then we can move forward and we'll work with jeff and his clients on the site plan issues. I'll be happy to answer any questions you have.

[14:11:19]

>> Mayor Leffingwell: Questions? Thank you. Councilmember tovo has one for you.

>> Tovo: Mr. Suttle, so I think I heard mr. Howard say something about an agreement that was going back and forth.

>> So when we first started this nine months ago, and we were going through the landmark commission and the design commission and all, jeff had several things that he wanted to talk about. And then the next hearing we would have a couple more and then that list grew. We responded to that letter saying we'll do some of it. Some of it we won't do. He wrote back another letter that was more details to it. And on monday I gave him an agreement that basically incorporated those. It's a license agreement. And incorporated many of those things. He's got a copy of it. It doesn't have anything

-- again, the things in the agreement have nothing to do with set back or the zoning case.

>> Tovo: I understand your point on that. I was trying to get the last chapter of that. So you sent it over on monday.

>> Yes. It's an actual document. What's been gng back between us had been letters, what we'll do, what he wants, what we'll do, what he wants. And we've put it into the form of a draft agreement for him on monday. Phrasers.

>> Tovo: Okay. Thank you.

>> Mayor Leffingwell: Council will now consider the request to postpone.

>> Next week y'all will have an abbreviated

--

>> Mayor Leffingwell: I thought I was talking. Come on, what were you going to say? [Laughter] you just needed permission.

>> I interrupted, I'm sorry. Next week there's no time for a hearing, as I understand it.

>> Mayor Leffingwell: Well, I think we're in the discussions about we may have to be out of here by 5:30, but I don't think that is finalized. But it would probably be a bad night to

-- >>e would like to go tonight.

>> Mayor Leffingwell: Right. Okay. So it's up to the council's, discretion of the council if there's a motion to postpone, we'll postpone the case. If there's no motion, we will put this item back on the agenda and hear it in order. Is there a motion?

[14:13:32]

>> Cole: Mayor, I'll move to postpone to next week.

>> Mayor Leffingwell: Mayor pro tem cole moves to postpone to next week or

-- we're just deciding that might be a bad week next week.

>> Cole: Yeah, we don't know the outcome of that.

>> Mayor Leffingwell: Her motion is for next week. Is there a second for that? A second for that motion? I'll second the motion for discussion. All in favor say aye?

>> Aye.

>> Mayor Leffingwell: Opposed say no? All right, all in favor of the postponement raise your hand?

>> Morrison: I had a quick question first. I have a question.

>> Mayor Leffingwell: Go ahead.

>> Morrison: If we have to end next week at 5:30, would it be possible for us to reconvene on Friday?

>> No.

>> Mayor Leffingwell: I don't think I'm available on that day. You can convene without me, but I don't think I'm available.

>> Morrison: That wouldn't be any fun. [Laughter]

>> Cole: We're not doing that.

>> Mayor Leffingwell: So those in favor of the motion to

--

>> Tovo: One more question. This has to pass on three readings, correct? So we could hear it on first reading tonight while we have everyone here and just agree not to hear it on all three readings to allow these folks to continue to talk.

>> Mayor Leffingwell: All right.

>> Tovo: Am I right in that?

>> Mayor Leffingwell: Those in favor of the postponement raise your hand. Opposed? All right. The motion to postpone fails. We'll hear the case. It will be in order. Now we go back to item number 7. Before we begin the discussion, there's one person signed up to speak, one person only. Katherine Echols. So she's declining to speak. So the floor is open for discussion or a motion.

[14:15:59]

>> Morrison: Mayor? I pulled this off consent because this is the Bull Creek property that really offers an incredible opportunity for new development in the center city. And we've heard significant testimony and input from the neighbors who have worked for quite awhile on developing sort of design principles and their vision for mixed use and all of that. And so the city was offered a first right of refusal, and I think that it could be a terrific project if we partnered with a developer that would

-- we'd be able to fold in many, many community benefits. It's my view that it could be much more beneficial to the city if the city owned the property. The challenge that we have is that in order to do something like that it takes time for the city to do it in our bureaucratic way that ensures that we have a fair and reasonable discussion in selecting a partner to do that. Staff has looked high and low and has found that there is no funding to just write a check and while there's been some discussion is there way do it even with private funds, right now there is no way to do it. So we're lacking for time and I understand that TxDOT has some of their own timeline that they're working toward, but that

-- is much more pressing than we might be able to work toward, but we do have the opportunity tonight to indicate to TxDOT that we would like to buy the property and go through this process and come up with a partner. And so while I know that it may or may not work, they may or may not accept it, I would like to propose that we adopt the resolution that staff has in the backup that says the city declares its official intent to purchase the property from TxDOT, but I would like to add obviously that's only going to work for us if we determine we can come up with a partner. So I would like to add language, and I had this written down, Janette, if it doesn't change again, you can have it, to add to that

-- so say we're declaring our official intent to purchase from TxDOT if the city is able to obtain the funds needed to buy the property by entering into a partnership or agreement for the development of the property. And then the second further

-- the be it further resolved would then be amended also to say the city manager is directed to it was to negotiate and execute, but it says directed to, I want to say, add pursue funding options with third parties and if successful to negotiate and execute all documents including a three-year lease, etcetera. Then this time scratch out the last words that say and three million dollars for immediate repairs and potential lease expenses. That gets deleted. That's not relevant. So that's my motion, mayor. I think that it's such an opportunity for the city I'd like to be able to make the statement and make the purchase with txdot open and transparent.

[14:19:45]

>> Mayor Leffingwell: Motion by councilmember morrison to approve a modified resolution. Is there a second to that motion?

>> Tovo: There is a second.

>> Mayor Leffingwell: Councilmember tovo seconds the motion. Okay. I'll just say I'm not going to support the motion for a number of reasons. We've been told by txdot this afternoon that they would not accept this, that they would go ahead on their timetable, they they would not accept a conditional bid. So basically it's a waste of our time, a waste of their time. It's a waste of whoever has to draw up the necessary documentation. Having said that, I would maintain that the purchasing of the of the property and the land development coded and our discretionary zoning powers, and I further believe that it's highly likely that should a private party purchase this property we'll wind up with some kind of partnership agreement with the city in any event and the city is going to be involved to a high degree in what is done with this property. I do not see that we need to make a request that will be rejected.

We've been told today that it would be rejected. Any other

-- councilmember martinez?

>> Martinez: Yeah. You know, I certainly wanted us to explore every option and that's why I supported getting to this point if we could figure out how to do it and get ownership and full control, but we have explored with txdot would they consider alternative proposals, would they allow us to find a funding partner. And it's been a flat out no, not even a maybe, not even a let's think about it. In fact, today's final response was, I'm not going to say it exactly, but it was to the point it was a take it or leave it, pay us \$28 million by the end of this year. We already know what the answer is because as the mayor said we asked them that this afternoon. So I appreciate all the efforts. I do think as the mayor said we have a lot of control moving forward. There are no utilities under this property. There's no infrastructure whatsoever. So in order for anyone to develop it it will have to be a substantial partnership with the city and it's going to center to comply with all of our zoning laws. So I do think we have a lot of control, but we have explored all of our options and I just simply think we're at the end. So I won't be able to support the motion.

[14:23:13]

>> Cole: I'd like to thank the staff for processing this so quick willy at our

-- quickly at our urging. You've been an incredible job with dealing with the state of texas. I think that we have done our due diligence and we talked to the state and we have to live within our means and we

know that we can't purchase this property on our own under the guidelines that they have given us. So I will not be supporting the motion.

>> Tovo: This site offers us an extraordinary opportunity that will not come again in this part of town. It's an opportunity to really see that land develop in a way that meets our community values, that meets some of our city goals that would have offered really extraordinary community benefits to the surrounding neighborhood and to the whole city. And I understand very well the kind of answers we've got from txdot, but I believe there's enormous value in taking a strong stand tonight and saying that we're interested and very firmly committed to pursuing this sale. That we do have real challenges and that we're asking them to acknowledge those and to consider the proposal we're offering of allowing us a bit more time to see if we could find a private partner through an rfp process. I don't believe we have anything to lose. We heard from our staff that it's preparing a response

-- that preparing a response would certainly take staff time. It would not require financial resources. It's something we could do in-house. I believe we have very little to lose in submitting that kind of strong statement to txdot and seeing if they're willing to

-- once it's presented as a formal proposal if they're willing to consider it. I think it's worth considering that stance.

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: I think we've made a strong statement and any further statement we made would be purely for rhetorical purposes. I don't think we need to say any more for the state and for any winning bidder to know they need to deal with the city and the neighbors and they need to come up with a development that's in the best interest of the whole city.

[14:25:25]

>> Mayor Leffingwell: Those in favor of the motion raise your hand? Those opposed? That motion fails on a vote of five-two with councilmember riley, martinez, might self, councilmember spelman, mayor pro tem cole voting no. So that brings us back to item 53.

>> I'm jerry rusthoven with the planning and review department. Item number 53 is case crown 2013-0158. The request is cbd cure, central or urban redevelopment subdistrict with the cure zoning proposed to make modifications to sections 25-2-64553. This particular requires when a building reaches over 30 feet of height before it heights 90 feet of height that it need be set back 60 feet from the property line. The proposal is to reduce that 60-foot set back to 40-foot. We have done that before for the frost bank building. We did it for the marriott and we did it for tom stacey's properties along congress avenue. All of which were on the east side of the street. If you recall there was a proposal to do that on the west side of the street last year that did not go over very well and that did not happen. But we have done it three previous times on this side of the street. That is the only part -- only modification being sought right now. The loading dock is off the table. We are working on an issue regarding the loading dock and the dropoff area on seventh street. S that is a site plan issue that has not been resolved. There is a valid petition in this case of 20% wand that I'm available for any questions.

[14:27:32]

>> Spelman: Jerry, what does it mean to say that the loading dock issue is off the table?

>> The loading dock is something the code would normally require two loading spaces. The code does allow the staff to administratively make a waiver to that. So what we had previously agreed with mr. Suttle was that we would look at only requiring one loading space. And then we were having ongoing discussions about what size truck that loading dock would have to serve. However an issue came up with regard to the valet spaces of the dropoff area on seventh street and how much space there would be for people to do the valet parking and dropoff. And it became apparent to us that we may be more interested in providing more area for dropoff than the necessity of having that loading dock. So mr. Suttle was requesting the loading dock waiver as a part of the zoning ordinance to essentially lock it in. Do you know what I mean? So that staff would have no more discretion. But he no longer wishes to lock that in and would rather let those discussions continue.

>> Spelman: So that means that the loading dock is still up to your discretion as to what requirements originally were going to be and they will be considered at the same time as the valet parking at site plan.

>> That's correct.

>> Spelman: Thanks.

>> Mayor Leffingwell: Councilmember martinez.

>> Martinez: Jerry, in the discussions for the valet parking, are there any indications as to how much of the right-of-way we'll be using or will it be all on the private property itself?

>> This is largely in the right-of-way. The issue has been

-- we kind of have two conflicting city goals here, which unfortunately happens sometimes.

>> Martinez: Only two? [Laughter]

>> we have the issue on the one hand requirement since we modified the code, they're required now to do the community benefits in exchange for greater height. One of those, the first one of those community benefits is great streets so great streets we have large sidewalk, benches, trees, etcetera, but then we have another goal of making sure that the people who are doing the dropoffs are not doing it on seventh street and blocking a lane of traffic. So in order to do that of course you need to have a cutout, if you will, off the street for the cars to get out of that lane and do the dropoff. So the ongoing discussions have to do with how much sidewalk area are we going to give up on the seventh street side in exchange for the valet parking dropoff in exchange for great streets.

[14:30:11]

>> Martinez: Why don't we do in some cities where they require it to be completely on the property and the first floor is just half of

-- or a portion of

-- a portion is hotel and then the valet cueing and dropoff and all that kind of in a garage type setting.

>> That's what we've been looking at. That's one reason we proposed last week is we asked the applicant to look at taking a portion of the ground floor and having a pull out that you would essentially make a notch in the building to get more space for people to drop off and that's what we're still talking about.

>> Martinez: The reason I bring this up is I know we've done this in other cases and I'm not going to

name explicitly where, but I think we've really hurt our connectivity in very difficult ways in terms of pedestrian connectivity by doing this. And if we're going to

-- I believe we will. If we're going to add more and more hotels because we're becoming this international tourist kind of destination, I want us to figure this out. We can't eliminate that goal of great streets and pedestrian

-- being pedestrian friendly, but at the same time we certainly want the hotels

-- because we provide jobs and revenue, I just want us to have a very balanced conversation about that. And I think it can be done, but I want us to be very cautious about how much of our sidewalks we're losing each and every time we do these cases.

>> We understand that, but we also understand that seventh street is an important cross town connector, if you will, downtown. And probably even more so than some other cross town streets. We're trying to balance the two of those.

>> Mayor Leffingwell: Okay. We'll hear from the applicant or set the timer for five minutes. Before you start, richard, I have no speakers signed up in favor. I have some signed up in neutral. Unless you notify me otherwise, I'm considering if you're signed up neutral you're against and you will be grouped with the against speakers.

[14:32:19]

>> There is probably one signed up in favor. Leeann carly was going to donate time to me, but I probably won't need it.

>> Mayor Leffingwell: Who?

>> Lynn anne carly.

>> Mayor Leffingwell: No, she's not on here.

>> She doesn't know how to do it very well then. [Laughter] my name is richard suttler on behalf of the applicant tonight. The zoning case before you is a simple case, contrary to what mr. Howard will tell you later, and it is simply that over the course of time on the east side of congress the congress avenue set back had always been you had to go

-- when you're over 30 feet you had to step back 60 feeting to up even higher. And wh we're asking for is to go up 30 feet and go back 40 feet. It's the exact same set back. It has been granted to three different zoning cases up and down congress it's the exact same set back that senator watson codified in state law last session. The reason that it has morphed over the course of the years on the east side is because on north congress there are buildings that actually have no set back. And so the whole purpose of trying to create a view corridor is statistickerred because there are other buildings

-- shattered because there are other buildings within this view corridor. This zoning case started out, we've been to the landmark commission twice for demolition permits. This is a site that's a surface parking lot and a small building which is attached to mr. Howard's can client's building. The building on the corner burned down. Our party wall is exposed. We intend to take that parking lot plus our little building and demolish it and go up with the two hotel plan that we're talking about.

>> Mayor Leffingwell: You have an additional three minute. The person has now signed up.

>> Thank you. We have the recommendation of the city, we have the recommendation of the city staff. We have the recommendations or positive comments because some of these boards and commissions

don't make a recommendation, they make comments. But we have positive recommendations or comments from the city staff, the design commission, the downtown commission, the historic landmark commission and the planning commission. We've been through all of those and they all have been positive on this deal. The reason we took the loading dock question off of the zoning case is because that is a work in process that is more appropriately handled at the site plan phase with staff. And rather than put you in the position of inserting yourself into a traffic discussion we've taken that off. We're simply asking is it okay to have the same set back that everybody else has had. As I mentioned earlier there is a valid petition. We need six votes to get this set back. The valid petition is 24 percent. 16.7% of that is the hotel across the street from us. When we asked them could we discuss the zoning case and why they opposed and why they're on the petition their response was we just think there's too many hotels being built downtown and we don't want another one. So we're going to sign the petition. I think what you will hear from mr. Howard is you're granting us this huge benefit by giving us this set back and it's a huge density bonus. In fact it's not. It's how my client wants to build a hotel, but if somebody else wanted to build it with the 60-foot set back they would add stories and go up taller. It's not a density bonus. The density bonus program is an far program that we're going to earn through the site plan process through providing the gate keeper requirements under the density bonus program. We are still committed to working with particular howard's client on the party wall issue, on the extermination of pests that they've asked for, the hours of using loud equipment so that we don't disrupt the hideout theater. We're still willing to work on all of these things. And there are things that we're going to need from them too. In the agreement that I submitted to mr. Howard on monday is a reciprocal agreement where we can swing our crane over them and in exchange for that we will do certain things on our hours of using loud equipment so we don't disrupt the hideout theater and those types of things. But those are things that are between two private parties and have nothing to do with the subject matter at hand tonight. So with that I know it's late. You have a long night ahead of you. I will be happy to answer any questions you have and save the rest for rebuttal.

[14:37:08]

>> Mayor Leffingwell: Goes mr. Suttle? Councilmember riley.

>> Riley: We have heard some concerns from the adjacent property owner and tenants about some construction issues and those are legitimate concerns. At times in the past in comparable cases there have been agreements worked out and committed to writing in the form of

-- I believe sometimes they were in the form of private restrictive covenants, but I wouldn't swear to that. Are you

-- I know you've had discussions with those next door. Are you-- do you expect that by the time we get to second and third reading you may be in a position to assure us that there is some written agreement?

>> I wish I could say that, councilmember riley. I found it difficult dealing with

-- they'll say the same thing about me. [Laughter] I found it difficult to reach an agreement with them so I can't say definitively that we will have an agreement on these things, but some of the things

-- for instance, they want a five foot set back of our building

-- on congress avenue, a five foot set back. The same set back we would have on a single-family house.

They're going to say you did it on the jw marriott. I don't know if it's five feet, but we also had a mural



that the landmark commission asked us to keep accessible. It doesn't look right if you start having setbacks. They want noise and vibration sensors. They want us to exterminate both when we demolish and after we demolish. And some of the things we can do. Many of them, most of them we can. But can I commit to you that we'll have an agreement by second and third? I can't say.

>> Riley: Okay. But you are in discussions and you expect those discussions

--

>> we're willing to put netting over their building. We're willing to change their air conditioner filters out. These are things they've asked for and things we've agreed.

>>

>> Riley: Those discussions will be ongoing?

>> Yes.

>> Riley: Okay. Thanks.

>> Mayor Leffingwell: Okay. We'll go to

-- don't have any speakers signed up in favor. So we will go to speakers signed up against beginning with jeff howard and a whole bunch of people want to donate time to you. Katie vandyke. Is she here? No? Jonathan whit enberg?

[14:39:24]

>> They may be out in the lobby, mayor.

>> Mayor Leffingwell: Well, they have to be in here. Travis wheat? Travis wheat? Lynn cooksey. Well, you can go ahead and start on your three minutes and

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>> [inaudible].

>> Mayor Leffingwell: What is your name?

>> Tina wheat. [Indiscernible].

>> Mayor Leffingwell: Anne wheat, are you signed up? Okay. You're signed up neutral. So you have six minutes right now. And if we get more

--

>> [inaudible].

>> Mayor Leffingwell: Now you have nine minutes.

>> Thank you, mayor. Good evening, councilmembers, my name is jeff howard. I represent the commercial property owners at 617 congress avenue. And the property is currently occupied by the hideout theater and coffee house. My client's family, they've owned the property for approximately 150 years and the building is approximately 140 years old. This is a national registered historic district. It's on an historic block where you have the littlefield building, stephen f austin hotel, the driskill hotel. This is a very, very important block on a very, very important street. And as many of you know I'm on the board of the downtown austin alliance. I've also been involved in the real estate council of austin, as you know. And I get downtown density. I know that's what we want. Even downtown density needs to be placed in its proper context. It needs its proper limits. In places like portland and vancouver they would not allow this building. They do not allow a 23-1 far. Even in chicago, illinois, a project like this proposedly white lodging would not fly. In june of 2014 a similar project off the magnificent mile was rejected by the

aldermen in the area as being too intense for the area. That's in Chicago, Illinois. This is not a simple case and I find it incredible that Mr. Suttle these are just site plan issues. Traffic, we talk about traffic every Thursday on zoning cases. We talk about the way buildings look, how big they are, how much -- how they impact neighbors. We talk about that every Thursday. These are not site plan issues. These are zoning issues. And while it may not be the tallest building in the city, this will be the most intensive dense building in the history of this city. At 23-1 far there is no other building like it. There is no building like it that has no on-site parking, potentially no loading docks. It's two hotels, numerous restaurants, bars and lounges all on a lot that is smaller than two standard city residential lots. This is truly unprecedented. And I have a powerpoint I think. Is it up? So this is a graphic that shows you how big this building is. It's enormous, but it's on about a fifth or a sixth of this block. Not 80 percent like JW Marriott. Memorial not the whole block like the Frost Bank tower. It's on a tiny fraction of this block. You can see that the south facade will be a 33 story blank wall. Again, this is the view from Sixth and Congress, the aerial view. You see this is a massive building with a massive blank wall. Here's an example of the scale of the hotel next to the adjacent buildings. It is massive. It dwarves this historic block. This is the proposed hotel plans for the valet parking. They planned only three valet parking spaces. That's what Great Streets has told them, that's all they can get. In order to triple the far. What you see there is the sum total of the community benefits. Three trees, an expanded sidewalk that will be taken up by cafe space, and three valet parking spaces to handle 4,700 trips, 410 rooms, hotel staff and approximately 20,000 square feet of restaurants, lounges and bars. If Councilmember Martinez was here I would say that his question is absolutely correct, how can you as a council support another density bonus, another discretionary benefit to this property owner without understanding what the impacts are going to be on Seventh Street? Sure really this project is seeking four density bonuses. The first is the density bonuses in the density bonus program which allows it to go from eight to one far to 23 to one far. Tripling the size of this building. It's granted with only the Gatekeeper Great Streets and two star green builder benefits. There's no affordable housing, no on-site plazas, none of that,, just what you saw, three or four trees and larger sidewalks and two star green builder. Those other cases that Mr. Suttle mentioned, they're not the same. JW Marriott I believe was 16 to one far, not 23 to one far. It has 438 on-site parking spaces. It has three loading docks, one of which is 10 by 55. It has additional loading off streets, specifically granted on Third Street, which is different from Seventh Street. The Frost Bank tower had 12 to 21 far. It was the whole block, everything. This is unprecedented. You have not approved anything like this ever. And it's going to have an impact on Seventh Street. It will have an impact on that alley. They have also asked for a second density bonus. Again, this is administrative. No parking requirements. Other similar cases have provided on-site parking. The third density bonus is the one we're talking about don't and this is this cure zoning to allow the setback. What Mr. Suttle told you in the postponement request was that think wouldn't do this project without this set back. And there's a good reason. There's 116 rooms in that 20 feet. It's a 40% increase in the number of rooms that they planned outside that set back. 116 rooms in this 20 feet. That's a density bonus. 42,000 square feet increase over those 29, 30 stories. It's a discretionary action. What community benefits have they provided? They haven't provided any. But what they have done is there are community burdens. A 33 story building blocking views and light, a 33 story blank wall outside the building out of proportion with the rest of the block. It will create major traffic problems on Seventh Street. It's going to make redevelopment of adjacent property extremely difficult. It's going to burden the alley. And it's going to

threaten a local business that you all

-- I think maybe folks will speak to this. You just gave them a proclamation commemorating their 15 year history and what they do for this city. It will threaten then local business. And as some of you may know construction downtown and its impact on local businesses has been an issue. Colorado street local businesses have sued the city. Our ordinances for construction are not adequate. Their not adequate. This is the time to address these issues. When an applicant comes to you asking for a discretionary approval that gets them a density bonus of an extra 116 rooms, that's the time to ask the question how -- are you going to be a good neighbor? And every single board and commission that we've been to has told them be a good neighbor. Work with your nix door neighbors. Come to some agreements on construction because our current ordinances are not adequate and that's been proven by the colorado street owners. So that gets to my last slide, which is the requested action. I think that perhaps it would be appropriate to deny this request. The applicant has failed to address concerns. City staff is now concerned about the traffic and the valet parking and the loading problems and how that will be created and there's no clear solution on that. Denial would let us go back to the drawing board essentially.

However, if you're

-- if you are inclined to approve this on first reading then we would ask the following

[14:48:10]

conditions: One, prior to second and third reading, enter into a private restrictive covenant with the adjacent landowner addressing construction and use issues. Two, prior to second and third reading provide a valet parking and loading dock plan that you can consider so you have the information and can you know what the impacts of this project are going to be. And three, adopt a conditional overlay with the following restrictions. Provide a loading dock 10 by 40. That was the staff recommendation originally. Prohibit the use of site for weddings, banquets and other mass gathering events. They've made the representation that they'll do that. Three, limit the meeting space. Four, limit height on the portion along congress avenue right-of-way. And five, establish a set back of five feet. Even three feet would be great. A three foot set back would allow 15% window penetrations on that south facade. Even a three foot set back would allow to us have access to our party wall. A three foot set back would mitigate sound and noise and it would only require nine inches from each one of their rooms. A three foot set back seems reasonable to us. With that I'll be happy to answer any questions that you may have.

>> Mayor Leffingwell: Questions? Thank you.

>> If I could, I'll just pass out that last slide with what the requested action was.

>> Mayor Leffingwell: Just give it to the clerk and she will get it to us. Kareem batter? Kareem? Roy janek. You have three minutes.

>> Great, thank you. My name is roy janek. I'm one of the owners and the artistic director of the a hideout theater. Thank you for listening to me today. I spent

-- I started taking classes at the hideout in 2005 and became one of the owners in 2009. And as mr. Howard alluded to, today we got a proclamation from you which we're very thankful for, declaring this weekend officially the hideout theater's 15th anniversary weekend. I'll share a couple of the relevant whereases, which is the hideout theater is celebrating 15 years in its historic downtown austin location.

As our city's premier venue for improvised comedy and center. And also improve is spontaneous, entertaining and fun like our city. We wish the hideout continued success for many other years to come. And the reason that I'm talking about an artistic issue here today is because this zoning issue, even though it doesn't directly relate to the theater, is really I believe our last chance to get an agreement with the hotel that addresses our issues. The fact is we're terrified of this hotel being built because it's going to take

-- I don't know, it could take two years, two and a half years. I don't remember the exact amount of time, but if you looked at that drawing that was for scale you can see we were the tiny blip next to it that was for scale. The traffic interruption, the construction during that building is going to hugely impact potentially our business. And we're operating under no illusions. We know that's part of the price of doing business downtown, but our classes and our shows, which are the livelihood and the reason that the hideout theater exists and has since 1999, and the reason that hundreds of people will be at the celebration this weekend for our 15th anniversary, the reason it exists is those shows and those classes. And if there is noise during the times that those are happening, they cannot happen. We have to shut down every year for the republic of texas biker rally because of the parade of harley davidsons that goes up and down congress avenue. That's fine. We accept that. That's one weekend out of the entire year. But if we're shut down for six months, we can't hold our shows, we're basically out of business. And next year we'll be celebrating our 16th anniversary in a shed somewhere behind a torchy's tacos or something. We'll keep existing but the historic location we've been in, the 15 years we've established there, our increasing international reputation is all on the line if we can't reach an agreement with the hotel that satisfies our needs. Also, just recently our international reputation as a theater has continued to grow and expand. This year we had our first ever hideout summer intensive where students from all over the country came to learn improvised theater from us, including canada and london and a lot of other places.

[14:52:56]

[ Buzzer sounds ] is that my time?

>> Mayor Leffingwell: It is. Thank you.

[ Buzzer sounds ]

[ buzzer sounds ] [laughter]

>> Mayor Leffingwell: Stop.

[ Buzzer sounds ]

[ buzzer sounds ]

>> Mayor Leffingwell: Here we go. We got it. [Laughter] are you signed up? Give us your name?

>> Great. Jill rowe, here to consolidate five minutes into three. Okay. So mainly want to show some pictures, some real world pictures about what it is that we're here to talk about. First of all, windowless walls, does it matter what the pedestrian sees? People are talking about the south facing wall. Who cares if the wall doesn't have windows? In particular

-- let's see, which way should I click this? There we go. Unfortunately I sold the land for this deal, which is the plaza lofts. 15 years later they still haven't built next door. I'm actually embarrassed to say I represented the seller on this deal. We did not know they were planning on not putting windows there.

At least fortunately the cars are facing the opposite direction, only the pedestrians see it, not the cars also. This is the JW Marriott. They've got two floors above the existing historic building that are windowless. Again, it's only two floors. Imagine thin 32 floors instead of two floors. This is an existing one they have at San Jacinto and Third Street. That's a different direction. Both of those are two different hotels they have at the same intersection. This is again a partial windowless wall against the back side of the building. Again, same pair of buildings. The point is does it really matter

-- is this the signature we want for Austin? Who really cares? Does it matter what the pedestrian sees? To me it does. I'm not saying that I'm the keeper of the taste. You guys decide, but most of all I want everybody to actually know this is what they've built in rest of downtown. That's why I want you to see what I see. And then y'all decide from there. Okay. Next slide show. Here we go. Now we'll be talking about the alley. I wanted y'all to see the alley that's been the subject of great debate. And in particular my daughter goes to the school, but I call it the busiest alley in Austin because it sure seems that way to me. This is a picture of the alley. Where the fellow is standing is where they're proposing to have their trucks unload. There's a row of dumpsters there. The whole alley is full of dumpsters from the Driskill. This is a truck driving through. My daughter goes to the art school across the street. These were snapped quickly one week when I was dropping my daughter. This is again as I'm literally pulled over dropping my daughter you can see all the trucks, vans, etcetera. And again, all these things that are there now are going to have to move because again that's their dropoff lane. This is in the area that would be the dropoff lane. There's that truck there. There's the passenger van thing. I come back four hours later by that

-- that other one was 12:30 in the afternoon. At 4:30 when I come back I snap the picture, guess what, that truck unloading is still there, the passenger van is there. Anyway, back to other things. Anyway, I would show you another picture, but we're done. Thank you so much. We appreciate it.

[14:56:48]

>> Tovo: Mayor, I have a quick question for you. I'm not sure I followed your point about the windows on Congress. And I wondered if you could just

-- summarize that quickly.

>> You bet. Point is as you're walking down Congress and you're going towards the Capitol, to me the Capitol view is as you're standing there at Sixth and Congress what I consider the Capitol view is you're standing there at 6th and Congress, I'm not saying it's encroaching on the Capitol view corridor, but to me the classic photograph of Austin is the classic shot of the Capitol you take as a tourist there and the wall will be near blank. They have two sets of drawings. One has one tiny window per floor. Another one has a pair of windows facing each other, but none facing south. But a nearly windowless wall facing to the south to social innovation that what you would

-- so that what you would be seeing as a pedestrian or driver is nearly or virtually windowless.

>> Tovo: You were saying that the other buildings that had received variances all had windows?

>> It's not that they received variances, it's that the other ones are either facing an alley like in other words that pair of hotels is in the middle of the alley where they own both sides or it's facing some

-- it's the back of something. Nowhere else have they been doing it except for the pair of buildings

-- except for behind the historic building where the JW is right now. But they've only done two floors.

Nobody has done this on congress or in a highly visible area, which is why you haven't noticed it being done.

>> Tovo: Thank you. Appreciate that clarification.

>> Thank you very much.

>> Mayor Leffingwell: I think it's usually an energy saving measure to have no windows on the outside.

>> Actually, they stated it's a cost saving measure that it's because they need to be fire rated.

[14:58:48]

>> Mayor Leffingwell: I was just making a statement. Jessica argent. And donating time to her was suzanne schneider and julie adams. That's all the speakers we have signed up against. We'll have three minutes rebuttal from applicant.

>> Can you turn on my slides? Interinter. [One moment, please, for change in captioners]

>> the one that stings the most I guess

-- and I get it is this windowless wall issue, the windowless law is a fire code requirement. If you are within a certain number of feet within a building, then you can't have these penetrations. What we decided to do at the recommendations of some of the other borders and commissions is

-- of some of the boards and commissions is we have a light well built in, not a flat wall, a light well built in where there is a notch and there will be windows in the notch and then we agreed to use two different kinds of materials on both sides and I wish he could have been there tonight to show you that. It won't be a blank wall but it would be a fire code requirement and then they could say to do something and then the price of the building comes up and then tomorrow the neighbors next door could have had a building go up next to us and it would have been wasted effort and they would have to put a blank wall because of the fire code requirements. It's not by choice. It's a fire code requirement. All of the issues raised tonight, the alley, the loading dock, all of these things are things rewith going to work through on the site plan process and talk too staff

-- you talked about razing it and having the drop off and loading. Well, what that requires is exactly what the city designers trying to get around, and that is a driveway in, a driveway out, because that disrupts the pedestrian flow hand then in addition to that you eat up your pedestrian use on the ground floor with basically a ground floor garage, so we are caught in all of the design. The picture you see in front of us is the picture that received the accolades from the landmark commission and the design commission and the downtown commission, where the scale, the size and scale were trying to replicate the rhythm of congress avenue on the frontage and then what you see there is a 40-foot setback before the tower goes up. I will be happy to answer any questions you might have. Thank you.

[15:02:43]

>> Questions for mr. Suttle.

>> Spelman: Mayor. Counc counc il member spelman.

>> Spelman: Tell me about how the

-- you have about 450 rooms in the hotel, somewhere around there, right?

>> Yes.

>> Spelman: How you going to handle the valet parking during the peak hours?

>> We hire valet parking company that's independent of the hotel, and I am told that they go and they leave spaces around and they staff adequately that during peak hours, they think they can run the parking and do it just fine. Now, we prefer to have more than three parking spaces, yes, but under our great streets commitment, that's what staff said we are limited to.

>> Spelman: So you have got three parking spaces. According to the ite trip generation manual you can expect to have about 0.6 vehicle trips during peak hour in the afternoon. So about 270 trips in and out, 270 cars using these for three parking spaces over that peak hour, and the only way that works is if the valet is able to move the car in and within about 40 seconds get people into the car and get it gone and the next car in. Now

-- my apologies for a highly mathematical approach but I want to see a sense if this is doable and to me it seems very, very hard to keep up during that peak hour.

>> Well, I think it may be difficult in the unusual peak hours. I don't

-- I don't necessarily buy

-- my client doesn't necessarily buy the ite peak number hours because many people downtown now are coming without a car or they are coming by taxi or something like that, which raises its own set of issues. The fact of the matter is you don't want to build a lot of parking and a lot of valet and a lot of driveway space for just the peak hours, because that ruins the pedestrian experience and the great streets and the sidewalks that we are all trying to create downtown, so lodging operates, zones operates, hotels all over the country and they are waging about \$75 million that it will work and make it work right.

[15:05:11]

>> Does white lodging operate another hotel with the similar constraints as this one?

>> Yes.

>> Spelman: Only three valet parking spaces all parking off site and very large hotel, something like 450 rooms?

>> Yes, and I say that because the next thing you are going to say, well show me.

>> Spelman: Thank you.

>> And I don't have it and I will have

-- if this does not pass all three readings tonight, we will have the opportunity to come back to you hopefully next week for second and third reading and I will show you how that will work.

>> Spelman: Thank you for giving me a provocation for only voting first reading. Thank you, richard.

>> Tovo: Mayor. Counc counc il member tovo.

>> Tovo: Where is that hotel?

>> Dustin, do you want to help?

>> Chicago.

>> In chicago. And we can get that information to you.

>> Tovo: Thank you. Counc counc il member morrison.

>> Morrison: I think this is probably for staff but the three valet parking spaces you say you want more but staff is saying all that can street can handle?

>> Without violating the great street sidewalk topology, yes.

>> Morrison: Okay. I do have some questions for staff.

>> Morrison: Let's start with a valet parking and great streets

-- and I agree with council member martinez, something like that is extremely disruptive to the pedestrian experience, so is that what's envisioned, or I saw a slide, I think, where it was just sort of like a little cut in. Is it cutting in front?

>> What is proposed right now in the current site plan proposal is the side which is three cut in and there was a concern about the number of spaces by the transportation department, there being only three. Likewise we have a concern about the great streets and the great streets says they don't want to see no more than three, so we are working on that issue right now as a part of the site plan, but this was proposed right now as basically a cut in was basically for three cars.

[15:07:29]

>> Morrison: I think

-- was that going to be

-- was a slide going to be put up to show us or is that.

>> That's the current site plan submittal.

>> Morrison: You didn't put one up that has a curve in it.

>> There is one of those, too.

>> Morrison: Okay. Could I ask you to talk about the second one? Because that

-- what we are looking at right there

-- it just flickered off

-- essentially makes the sidewalk narrower but the one with the curve looked like it was going to have a cut and it tually cut into the sidewalk so you have to walk across it.

>> Let me address that. The one

-- the one with three cars, it is

-- the sidewalk is not nearly as narrow as the situation around the corner from city hall that you are talking about. That

-- this one we worked hard with staff with the notch out. It provides adequate sidewalk and the three cars. And the one that's on the screen now, this was a stab at a

-- at a recommendation or an idea that was pitched to us by city staff two weeks ago and that is, take your loading dock out completely and use that space to do a pull-in, but I can tell you that the great streets guys, they don't like this one because now you have to cross a lane of traffic, which is what you would have to do if you tried to put your cars underneath the building.

>> Morrison: Right. And I have to say that I think the pedestrian experience is significantly impacted by having to cross the cut out. The example I am thinking of. You are walking almost like more than half a block. Most of it is cut out. There is cut out and then a little bit of island that no one ever thinks is a pedestrian place and then a huge cut out again. So I think

-- do you know what I am talking about, mr. Rustoven?

[15:09:30]



>> Yes.

>> Spelman: Is that acceptable in our view these days?

>> No.

>> No, it's not. And this idea.

>> Spelman: Is that acceptable if in your view these days?

>> No, it's not but our conversation a few weeks ago said city staff this isn't an idea either. This is another pitch, that instead of having the cut out, do away with the tree on the far end and not have the cut-in on the end of the building and instead of havin 18 feet of sidewalk, whatever it is, maybe only have 15 feet of sidewalk and add some more stacking space there, but, again, those are things that we will address at the site plan stage and are unrelated to the zoning.

>> Morrison: So I guess I have a question for our transportation staff. Do we have some transportation staff here? Because I thought I heard a discussion about the potential for one day 7th street being two way. Would that be impacted?

>> Gordon leer, transportation department, and transportation has been working with the planning and development staff and one of the plans, I believe in the downtown austin plan was to make 7th street two way from this area, from congress to i-35 to connect up with 7th street, then on out to the east. So, yes, that's been in discussion for quite a while.

>> Morrison: And if we had valet parking there, how would that be impacted if it turned into two-way?

>> From our looking at around downtown, one of our engineers has spent some time looking around downtown, we don't know that three spaces would be sufficient for a 400 spot hotel, so we are going to look in refining those numbers and try to come up over the long term with some standards so we can tell a hotel, you know, we really looked at them to tell us how this is going to operate, but the example that you give certainly not our best situation in town, so ...

[15:11:36]

>> Morrison: I can tell you that traffic backs up a lot there. I wait for the valet parker -- the valet staff to come often as I am trying to get out of city hall.

>> They will stop in the travel lane for an indeterminate period of time waiting to get a spot in the limited spots there.

>> Morrison: Right.

>> Sure. That's another concern that we have.

>> Morrison: Okay. Thank you. I guess my other questions are for jerry. Jerry, I noticed that the downtown commission I think said they approved it with conditions but I didn't see what the conditions were.

>> One second, please. Can you give me a moment to find that?

>> Morrison: You bet. I probably do have another question. I am interested to know -- we are talking about downtown density bonuses to get to 23-1 far, I believe.

>> Yes.

>> Morrison: And then also we are talking about cure, and so to get to 23-1 under our downtown density bonus plan, what other requirements for a hotel? Is that where great streets comes in?

>> Yes, it is where great streets comes in and jorge is here from the urban design division and he can address the downtown density bonus issue if you want more detail on that.

>> Morrison: Sounds great and then you can look for your paper.

>> Thank you.

>> Good evening, mayor and council, jorge with urban design division. To answer your question, council member morrison is that the hotel use would only be required to meet the gatekeeper requirements of the density bonus program. As you recall, there is a payment of \$0 at this point for additional benefits. That would be a placeholder that we would look at in the future to provide.

>> Morrison: Right.

>> So they would be required to comply with full installation of great streets on that side on 7th street. Congress already has that and need a 2 star green building as part of their gatekeeper requirements. One of the third issues is substantial compliance with the urban design guidelines which the design commission has found to be in full compliance with that.

[15:13:59]

>> Morrison: And so the gatekeeper requirements allows them to go from 8-1 to 23-1 far.

>> Yes, all the way up to 25-1 to do that because they are in the core area as described in figure 2 of the density bonus ordinance but their request is only up to 23-1.

>> Morrison: Right and there is no height limit there, anyway, it is all about far?

>> Correct. Because theirs is on cbd.

>> Morrison: So when we are talking about cure, we are talking about cure which doesn't address height at all and far, we moved that over to the modified cure, right?

>> That's correct.

>> Morrison: And so are you familiar with the cure that does still exist that is being applied under?

>> Yes, the way that they are wanting to use the cure, is they want to modify the setback that you have on congress avenue. It is one vehicle that has been used in other instances, other occasions up and down congress avenue to modify the setback. There is also maneuvering in the alley that can be used for cure and other use modifications that you can still do under cure, but in this particular case, the way they are applying that, it's for the loading and offloading which is now a separate issue that can be discussed at a different venue and the cure application in this case will be for that 40-foot setback.

>> Morrison: For the setback?

>> Right.

>> Morrison: And what are the conditions of that cure? It says it should be beneficial to the community, right? It's not just an automatic. There are some discretionary

-- there are recommendations for criteria of when you should do it.

>> Well, that's what we plan on the density bonus

--

>> Morrison: But the language of cure

-- I don't have it in front of me but the language of cure says there should be some benefit to the community for doing it. Or am I wrong?

>> I believe you are talking about the purview statement of the cure district, there are some references

to community benefits, et cetera.

>> Morrison: Do we feel there is any command of benefits of doing this?

[15:16:00]

>> We feel the one specific issue the cure is being used for is the setback, there is precedent for doing it and we do of course feel that a hotel is better than an empty parking lot.

>> Morrison: Yeah. Right. I can see that.

>> And I did find

--

>> Morrison: Great.

>> I did find the conditions of the downtown commission, and they were to support items 1-5 on the [indiscernible] list which were to keep the alley and sidewalks open at all times during demolition, construction and occupancy, to keep parking spaces on congress avenue available during demolition and construction and no construction trucks parked on congress avenue during demolition and construction, to exterminate for pests and implement pest control program to preserve integrity of soundness wall and structure next door, to provide full access and repair for the party wall of the party next door to provide demolition activity prior to 6:30 p.M. Only and item 8 which is the developer to work with the design commission on solutions for the south facade blank wall, to

-- for the developer to address the issue of parking spaces for the disabled and to continue ongoing discussions with the adjacent property owners to address their concerns.

>> Morrison: Great. So it sounds like all of the detailed points of the agreement that they were working on?

>> Exactly. They are working with the adjacent property owner, yes.

>> Morrison: Okay. And then I also have a question. I saw mr. Howard mention reference to the downtown plan with regard to side car setbacks downtown. Can you speak to that?

>> I believe that I asked jorge to address that issue as well.

>> Morrison: I should have asked that.

>> Council member there is a recommendation to be dealt on the austin plan that references a relaxation of that setback. Doesn't give you a specific number by which that relaxation should occur. Now that it's been by president in other cases that's been relaxed to what you are seeing in the request of 40 feet or 60 feet. So you are seeing the request now come forward to be aligned with other zoning cases that you have had up and down congress avenue on that side.

[15:18:12]

>> Morrison: I am actually talking about the side yard setback.

>> Sorry, I misunderstood.

>> Morrison: That there was a reference to the downtown plan and maybe mr. Howard can come up and tell me if I was just dreaming of that, I was in back watching on the television.

>> Yes, yes, council member. The

-- the downtown austin plan in, I guess it's sections dd3.1, dd3.4 and dd3.5 recommend an interior side

yard setback for powers like this, and the point of those recommendation

-- for towers like this and the point of this recommendation is

-- there is several. One is when you where in a historic environment, you want to preserve the integrity of historic blocks and this is a historic district and secondly to make sure there is provision for light and air so you don't create a canyon like effect where a solid block is nothing but a building and the third is to preserve some sort of develop ability for adjacent sites so there is

-- the downtown austin plan does recommend a side yard setback and certainly that was done at jw marriott and the joseph building. It would let us have some access to our party wall. It would mitigate noise and sound and it would certainly allow 15% window penetrations if you had a 3-5-foot setback so it would address that south wall issue as well.

>> Morrison: Right now there is a 0-yard setback?

>> Right now there is a 0-yard setback, that's correct.

>> Morrison: I wonder if you can speak to that recommendation of side yard setbacks or interior wall setbacks, do you want to

--

>> yes, I can take that real quick and jorge can address the downtown plan specifically. I would like to offer my opinion if you don't mind.

>> Morrison: I would love to hear it.

>> I do think that would be a serious safety as well as, I guess just urban environment issue. If you can imagine having, you know, the existing building and having a 3-foot gap between it, you know, going the length of the half block to the alley. To me I think that would create an opportunity for, you know, people to do unpleasant things, then, for, you know, trash and whatnot to accumulate for a person to maybe get out of view if they were working on congress avenue if they wanted to do something bad to somebody. It seemed the idea of having a small narrow, otherwise unusable gap between the buildings would become an issue.

[15:20:53]

>> Morrison: So maybe -- I see mr. Howard shaking his head. He disagrees with you and then I see someone else lining up, too.

>> Sure.

>> Morrison: We can get everybody's ideas.

>> This could be a gap between buildings. You can secure it. You see it all the time. Fences. Secure it. You could even, you know put some sort of wall that prevents it from being accessed. You can secure that as well.

>> Would you like to comment briefly?

>> It would change the whole historic character of our congress avenue. There never has been spaces between buildings on congress avenue. Downtown commission, design commission, landmark commission, they all thought the setback issue which is not new

-- they raise it every time

-- they thought it was a bad idea because it disrupts the rhythm and character of our historic national district of congress avenue.

>> Morrison: And I would love to hear from staff because apparently we adopted it on our downtown plan so it seems like there is a little disconnect here.

>> If I may clarify, council member. What you typically have in downtown blocks is you have a podium design where there is no setback or setback at the ground level but downtown plan recommended setback above that podium which is usually 60 feet, 90 feet above the ground level and that's where the setback would take place but never recommended that setback to be or the setback to be at the ground level where you have a gap of 3 feet, 5 feet, or any feet.

>> Morrison: So not at the ground level but higher up?

>> Higher up.

>> Morrison: What is the point of that? [Multiple voices]

>> Martinez: To have the entire separation, what was the point of

--

>> Morrison: What was the point of this? Why did you put it in the downtown plan?

>> There was the historic overlay that you have on congress avenue required a certain setback, to prevent views of the capitol along congress avenue.

>> Morrison: Still talking about side yard. Okay. The downtown plan says that above the podium that between buildings there should be a space. Is that correct? 90 feet on the front setback. The site to where you would have aligning buildings, there is no setback recommendation.

[15:23:06]

>> Morrison: Okay. Then that is inconsistent with what mr. Howard is tellin me.

>> [Indiscernible - no mic]. 3.1, 3.4, 3.5.

>> Morrison: Maybe this can be saved for next time, too. Because I would like to understand if we have something in our downtown plan and we are not necessarily going to be getting it and we are disavowing our downtown plan, I would like to know why.

>> We can address that issue. Only ready for first reading tonight so it's something we will be prepared to speak to next time.

>> Morrison: Okay. Thank you. Mr. Howard, I just want to comment that it is interesting because your comments were 23-1 was too much and that no parking is unreasonable, so it sounds like you want us to revisit our downtown plan and our parking

-- and our parking.

>> What I am saying there, council member, is when mr. Suttle says

-- this is just like every other case you have heard the last 3 times. It's not. Those other cases were on much, much larger parcels. They had much lower far. They provided on site parking. They provided plenty of loading facilities. This is unprecedented. Now

-- and so

--

>> Morrison: I get it.

>> They have the right to know parking. They are here for discretionary additional density bonus and should we look at things like impacts to neighbors and the streets.

>> Morrison: I hear you. And then my last question is for mr. Suttle. The idea of

-- I know there was a request, a suggestion of no mass gathering events. How do you handle 200 people showing up for a wedding? Because they are driving, you know

-- they are driving there at the same time?

>> We have agreed on the loading dock issue, which we have taken away and are going to negotiate with staff, if you are not going to have a loading dock and you are only going to have three valet spaces, then you do have to limit your meeting space. In this hotel, we are willing to enter into a public restrictive covenant with the staff when we get it negotiated that we won't have the meeting space that the intercontinue then tall or driskill has, you are right, we can't have a fundraiser or a big gathering space, or the intercontinental and so we are willing to lower the meeting space to accommodate the loading and the valet.

[15:25:40]

>> Morrison: Thank you.

>> Tovo: I have some ques mr. Suttle. I need to see if you are agreeing on some of the conditions that mr. Howard present ed?

>> Yes, we have agreed to many of their requests.

>> Tovo: The particular one I was interested in knowing about right now was the one with regard to weddings, large events. That is, those are things you have agreed to?

>> We will right size the meeting space to make sure that we don't

-- so that the loading dock and the valet spaces work. So, for instance, when it was part of the zoning case, the concern was if we got a zoning case and it says you only have to do one loading dock, and then let's just

-- and then we have a plan that shows very little meeting space. Let's say may client walks away. Now part of the zoning is it is still one loading dock. The next guy up can say, well, that looks great and I am going to do three floors of meeting space. So we have agreed

-- we had originally agreed in the zoning case but now we will agree in the site plan stage to limit the meeting space, to right size it for the loading dock and the valet.

>> Tovo: So if it were a condition of the zoning that the meeting space be limited to x square feet in large events of the sort that we saw described before, if that were made part of the zoning, that meets your goals

-- I mean, that

--

>> it would

--

>> Tovo: That would be consistent with the response?

>> It would, as long as it's also tied to, as long as you are not doing any parking and you are only doing three valet and you are only doing one loading dock, because what if somebody came in and said

-- what if my guy walks and the next guy saysly do two or three more loading docks and do more stuff, you don't want to limit their meeting space because now they will have adequate infrastructure to support it. I think you can get where try to go to get. If you don't have a loading dock but only have one and you don't have three valet spaces and have so much meeting space, that will be entirely within

-- we can put that in the zoning case.

[15:27:59]

>> Tovo: And I hear you saying that some of these are site plan issues and while I understand that perspective, I also believe that there is a good point being made, that the decision that is before us is increasing the capacity, and given some of the other decisions that council has made, it does increase and potentially exacerbates the situation. I would think the parking is one of them. So increasing -- are you in agreement with the numbers that mr. Howard presented? That it's about 116 additional hotel rooms for about a 45,000 square foot increase, the setback? The setback would net an additional 116 additional hotel rooms

--

>> if you didn't do the setback, then you will take the rooms you were going to do in the setback, and you just stick them on top of the building.

>> Tovo: Well how many

-- what is the square footage

-- in your opinion, what is the square footage capacity of that additional setback?

>> I don't know how to answer that

-- I don't know how to answer that because it depends on how you put the square footage

-- in downtown

-- well, we have a far cap ultimately but the far can be placed either in that setback or be placed on top of the building. So it's not like we are getting extra far or extra rooms or extra space. We are just putting it closer and lower than farther and higher.

>> Tovo: Okay. I see your point. Thanks. And I just want to acknowledge the

-- you know, it is an interesting

-- I would really

-- it was very interesting seeing the density bonus points that mr. Howard presented, because it is

-- you know, there have been a series of decisions by council that have

-- that are interesting ones. One swede the waiver of all parking requirements, which for a hotel of this size is a significant concern, and I would like to see before there is a final decision on this case, some more detailed explanation of

-- of the valet system that you are describing, because certainly some of the

-- some of the occupants

-- some of the visitors to that hotel are going to have cars and it's really unclear to me how they are going to be able to operate within that system. And the other is the point that's been talked about a couple of times. We had a very vigorous dialogue

-- and perhaps some of you were participants in it

-- about whether or not to require participation from hotels in our density bonus program and there were

-- you know, certainly some of them that felt they should be included in the density bonus plan and I think we've heard an interesting argument here tonight about going back and looking at that.

[15:30:56]

>> And we waited until after all of those decisions were made by the council and the decisions were made no parking in the density bonus plan and that's what we are coming to now. One more point on the density bonus and the far, as jeff mentioned zoning cases, and I was involved in all of them, I think, it's not like this is the highest one or the biggest one

>> . Many of those zoning cases had higher fars. They just didn't use them. I will have that for you, too, the next time around.

>> Tovo: Thank you. Good. In any case, I am glad to hear some of the comments that suggest there would be support form revisiting as that, as one of my colleagues alluded to earlier. And by revisiting that, I am talking to the density bonus program with regard to hotel uses. E entertain a motion. Mayor pro tem?

>> Cole: I was looking at council member morrison.

>> Mayor Leffingwell : I thought you were nodding at me.

>> Cole: Okay, mayor, I guess you are looking for a motion. I will make a motion on first reading only to -- I am really concerned about a lot of the landowner issues, especially the views and the construction and use issues and I would like the parties to work on that between first and second reading but I move approval. M motion to close public hearing and approve first reading only. Is there a second?

>> Second. C council member spelman. Further discussion? Council member riley.

>> Riley: I will support the motion. We are talking about the

-- simply a setback modification which is very

-- which is identical to what has been approved on that same block in 501 congress building and the frost building and the jw marriott, all on the east side of congress which is very difficult in terms of what we are doing on the east side of congress. There is also recommended unanimously by the downtown commission, the design commission, and the historic landmark commission. Now each of those commissions did have some comments to make and those include things like continuing to work with the adjacent property owners and seeing what we can do to soften the appearance of that south wall, and so I am hopeful that by the time we come back for a second reading and certainly third reading, that there would be some

-- something in writing that would address the issues raised in all of those points that

-- that

-- that

-- from those several commissions. And if I understand, we are not there yet. But I also understand discussions are ongoing so I am just hopeful we will be able to have something addressing those matters that

-- that ev expects

-- everybody has concerns on those issues. Mr. Suttle, would you like to speak to that?

[15:34:03]

>> Yes, and if you can help by getting the parties to include in the motion to bring it back next week for second and third, maybe not ready for second and third but at least second so these two parties will get



together and get something done, if that could be part of the motion, that will be helpful. It is your protocol, but ...

>> Cole: Mayor. C can you add that direction if you prefer.

>> Cole: Mayor, I would like to consult with mr. Howard since it's him who has parties who have the concerns about the wall view. What sort of time period do you think it would be to take to work out these issues?

>> Well, with all due respect with mr. Suttle, we have been trying 7 months to get an agreement. We got it monday afternoon, and with all due respect to mr. Suttle, he's had air letter with our reasonable list of issues for two months and we got an agreement from him monday. With all due respect, I would submit that it's not our side that needs to be motivated to get something done and so I think bringing it back by second reading is unreasonable, given that he just gave us an agreement and we have to negotiate it and we have to have our architect look at it. We have to have our clients consider it and we have to have a discussion frankly. His proposal only has some

-- made some progress on some of our issues, and so, yes, I would be very concerned about coming back on second reading when we just got this agreement.

>> What would the harm be? Then maybe we can talk about some of the things.

>> Cole: Hold on, mr. Suttle. I didn't ask you a question yet. Thank you, mr. Howard. Mayor, I will stick to my original motion to approve the zoning for instruction to the parties to work out the differences and the importance that council member riley said in working with the neighborhoods and let staff determine how it

-- the timeline that it comes back on the agenda. T that's additional direction to your motion.

[15:36:03]

>> Riley: Mayor. U understood. Council member riley.

>> Riley: I am concerned about the impact on the hide out. It is a very treasured downtown institution, actually treasured by the whole community and now it's getting a claim well beyond austin and I know being that close to construction on that scale can be very problematic and anybody who has been living downtown lately knows that, and so I really hope that we can work out something to address those concerns and commit

-- and commit some agreements to writing so I really hope we will see something in concrete in writing to address that. I appreciate everybody's concern about it and I am supportive of addressing that sooner than later because I know there is a lot of anxiety at the hide out, I would be of interest if I were in their shoes so to the extent we can address the concerns sooner rather than later, it would be helpful.

>> It would be. For instance, we got a letter today from mr. Howard. Approach the ariel encroachments to into the overhangs on congress avenue we asked to do. It is every stage they are against this project. I am asked if we can come back next week, we will give you an update on where we are to the talks. Then you can kick us to never, neverland but I would love you to hear where we are on the issues.

>> Riley: I would be supportive of that.

>> Can I have 7 months like richard had? A all right. All of those in favor of the motion, say aye. Opposed say no. That passes on a vote on first reading only on a vote of 7-0. Council member tovo.

>> Tovo: Yes, I want to make a quick comment, there are

-- I want to stay I voted for it because I think there are elements of this that are certainly worth considering but I believe the applicant has a lot more work to do to convince us this plan is going to work, that the traffic situation is going to work and I would  
-- for me, there is going to have to be far more work going on with your neighbors before  
-- before it will receive my vote and it's extremely hard to see this moving forward next week. I just simply don't think there is enough time to address all of the really significant issues that have been raised tonight and in the correspondence we have received.

[15:38:23]

>> Okay. N next we go to item 61. Before we go to our speakers, do we have any input from staff?

>> A staff presentation? Y yes. Okay. Well, I thought maybe there wasn't any because I didn't see anybody coming up.

>> I am here now. A all right.

>> Should I do it now? W wait a minute, we are going to have to suspend for lack of a quorum. You are back? 6. Okay. Go ahead.

>> Good evening mayor and council members, I am kim mcnight and project coordinator at the parks and recreation department. The lead designer for the peas park master plan is here today. We are here to ask you for adoption of this plan. This is an important moment for the department because the plan provides a very successful partnership between the city and the peas park conservancy which I will explain later in the presentation

-- the planning area is approximately 84-acres in size and includes pease park proper which is bound by 15th street to the south and stretches north along shoal creek up to 31st street, lamar is eastern boundary and east park is the oldest part with the exception of downtown scares. It was gifted to the city of austin by the texas governor ally janell pease in 1875. The conservancy formed in 2008 and is the adopted park group for the pease park district park. This group is truly remarkable. Since they formed they have planted more than 600 trees in our park. They have contributed more than 10,000 volunteer hours and raised more than \$200,000 towards an endowment more operations and maintenance in the park. It is a very difficult thing to do. The parks and recreation department is not traditionally funded for master plan for metropolitan and our district parks. The master planning for parks and

-- district parks and metropolitan parks is not funded in our capital improvement plan nor is the department typically allocated funding during the annual budget process. In our field master planning is the best practice, pease park and its 140 years has never had a master plan. When the pease park conservancy expressed interest in fund raising in taking on larger projects the department asked them to consider funding a master plan. A master plan is extremely valuable for a number of reasons. The department has assurance that park improvements though conceptional in nature has been vetted through public process and each is a design that considers and compliments rest of the park. The master plan provides a blueprint that complements the rest of the park

-- provides a blueprint that protects community-based vision for years to come. A master plan for pease park will be a tremendous and necessary component in leveraging funding for the philanthropic community, we have a highly nonprofit group ready to implement and the master plan is critical. For us as a department it is also important as we allocate dollars towards projects in the future through the

capitol bond program. This plan is costing upwards of \$250,000

>> the parks department is exhibiting 35,000 and the austin parks foundation is contributing 40,000, but the rest was raised by our community. The firm of wallace, roberts and todd was selected to develop the master plan. Wrt has an established national reputation for planning public spaces across the country. Among its numerous projects, wrt has prepared the first master plan for houston's memorial park and is currently working on the trinity river park project in dallas. Wrt also spearheaded the comprehensive imagine austin plan for the city of austin and its local subconsultants for this plan include clayton and little architects who developed design and preservation of the plan and a firm that conducted the natural resource inventory and developed the corresponding management plan. The master plan also serves to build upon a very significant investment the city is making along shoal creek, currently watershed department is leading \$6.2 million rest separation project that will provide erosion protection in shoal creek and proimprove quality of storm water runoff and improve vegetation along the corridor. Desired solutions will retain the character of the greenbelt and integrate with desired park uses. The parks department contributed to this planning effort by designing and conducting the public engagement process. We recognized as a treasured open space within our city's urban core the planning process would require extensive outreach and a great deal of interdepartmental coordination. We facilitated all of the public meetings, ensured the online survey tool was disseminated throughout the community and we kept the community informed through the project website and emails. Further we served as a primary point of contact for all communication and ensured feedback were answered quickly to the feedback team. All major park planning efforts we identify other city departments that may be able to contribute to the planning efforts. In the case of the pease park this is an extensive list. We had representatives on technical advisory group from watershed protection, neighborhood connective of public works, transportation, urban forestry, park maintenance and operation in our capital program, water utility, urban design, community engagement consultants and capital metro was on board because of three bus stops and also the austin police department. The plan has garnered a great deal of support in your community. You will see letters of support from at least six neighborhood associations around the park in your backup, environmental and preservation organizations, downtown organizations, several local leaders and distinguished professionals and the shoal creek conservancy, in close partner in efforts to support this area. Before I turn the presentation over to eric tamulonius, I want to briefly give you information about the removal of this from the park four years ago and this is something you may here

-- removal of disk golf in this area and you may hear this come up later in subsequent communications. With this park we didn't necessarily start with a clean slate so to echspeak. We had history of certain issues and we had to take this into account in the planning process. Back in the late 1980s, pease park had a reputation of being somewhat a seedy and dangerous park. The city approved 18 golf course and it was very successful. In time the disk golf course became very popular. In this time we also learned a great deal about best practices in locating, installing and maintaining disk golf courses because the sport has intense use

-- intense impact on the park because of its use. In the case of pease park, the red flags went up at about 2005 when people and advocates talked about escalating conditions of shoal creek and pease park. Simply put this is a very fragile environment. More than 74% of the project area is in a floodplain and has slopes greater than 50%. The austin parks foundation conducted a study of exist conditions in 2005

and 2006 and from there they approached watershed protection and asked for assistance in addressing possible solutions to address severe water quality issues, erosion and soil compaction issues. That report really led the department to make a very difficult decision to close the course permanently. We conducted a public engagement effort in 2005

-- sorry, 2009 and 10 and we did close the course permanently, I believe, in 2010. We did open a new course in 2012 at Roy G. Guerrero Colorado River Park. We spent more than \$300,000 on that course and its intention was to replace the course at Pease. It was located, installed and maintained in a much more sustainable fashion. We have invested more than \$250,000 in improvements to the Zilker Park Metro Park disk golf course just this year working with watershed protection and we continue to operate five free disk golf courses throughout the city. We have a difficult challenge in this process to be up front and clear about the fact that Park cannot in good conscience recommend the disk golf return to Pease Park but our disk golfers are important constituents and we welcome their feedback and involve the need for more disk golf opportunities in our city and we want feedback as you will see in your appendices, CDE and with the Shoal Creek restoration and Park plans to honor our requirements for the watershed and now I will turn it over for the highlights of the plan from WRT.

[15:49:07]

>> Mayor Leffingwell: If I could ask you to get through as quickly as possible because we have a number of items remaining on the agenda.

>> I will be glad to.

>> The best way to talk about this, then, is to quickly break this into four themes that represent the master plan. These four themes represent all of the comments that we heard from the community, grouped into these four areas and these also are the areas of action that we are proposing in the master plan. This includes first and foremost, the natural heritage of the park which is the very core of its being in its identity in the community. Followed by the memory of the community that's embedded in its cultural heritage that represents this strong history that the park there is with it. Then with those two pieces in place, the recreational trail system and gateways that provide access to that are really the way people experience and enjoy the park and last the way this park reaches out to the community, connects to the neighborhoods around it into the community at large forming a part of the vital life of all of Austin. [Indiscernible] more detail about the natural resource area, intent here is to preserve and enhance those components broken-down into management zones of which there are five. The first being this core area of the Shoal Creek and its adjacent banks which are so important to the ecological identity of the park, followed by the woodland and the tree canopy that extends out the park which is what many people love and cherish in terms of the shade and softness that comes to this otherwise harsh urban environment. The savannah the scattered trees in the lawn area that give people views as they see it from Lamar Boulevard and experience it walking through the park followed by the lawns that allow people to play in the park where the volleyball games occur and where eeyore occurs and picnicking and sunning occur. Last, the developed pieces of the park which are the areas in the park where people gather for the primary and more intensive parts of recreation and the management zones in the natural areas are complemented by the culture heritage areas which include the resources at the park, including entry grates constructed in 1920s, the terracotta is a focal point in this civilian

conservation legacy by virtue of the concrete construction of the extraordinary complex of picnic tables in the kingsbury area, the major bridges that cross over this and form a way that people experience the park and the stonewalls scattered here that represent the craft and care and concern that the community has layered on the park over the decades of its existence. To preserve and enhance the cultural hair talk and to also provide places for people to enjoy the park, our consultant has designed series of pifflions for people

-- pifflions for

-- pavilions to provide bathrooms and shade and provide history of the area of the site and shelter as they wait for buses and overlook other parts of the park. These are designed facilities that would recede in the background and be sort of rather quiet park-like structures. Now, the third part here, once the cultural and natural heritage is taken care of, to improve and expand the trail system that gives people recreational access here. The extremely popular of a shoal creek trail that extends through and along the creek will be improved. In certain parts right nows the currently paved. It will be extended throughout the park so the trail itself will be more sustainable. It would with stand the flood that currently ravaged the park and caused so much time to be expended on the maintenance of the trails. The large trail will be expanded along shoal creek, a certain portion of that being built by the watershed protection department wider than 12 feet to provide commuter artery for high speed bicycle traffic for those commuting northern areas to downtown. Next look at gateway that is allow people to enter the park enjoy and see the park in a more way, this is perhaps the transformational part of the park, to welcome people in the park from the busy is intersections of lamar and elsewhere in the neighborhoods. These gateways provide ways for people to experience the park and the cars and understand it as the gateways that lead into town and across town, seeing a new green image of this. Some of these are more welcoming, excuse me up

-- with welcoming such as at martin luther king avenue, a gateway that invite people to the park and cross over to the creek and enter the park in a more welcoming manner. The civic connections I mentioned will be provided in two areas. The first being the most prominent visual area along lamar boulevard which will be reconceived as a civic parkway of a grander scale and a grand entrance into the city comparable of those such as rock creek drive and higgins drive and others, improvement of lamar with trees, underground utilities in certain areas and improved drainage systems to reduce impact of the park would be a key part of the concept. Other side of the park, the west side facing the neighborhood, the more intimate area around this area would be where people can walk along the road safely without having to walk on the street providing places for cars to park in organized way and take some of the pressure off the community by allowing the some cars to park along the street and to adapt to the area where the portions of the parking lot have been reduced as part of the watershed protection department were implemented. Now, if we

-- if we were to take all of this and say how do you experience the park and look at the key areas resources are focused? The five areas we will talk about now in closing represent the focus of resources for maintenance and investment and also the way to focus human use to reduce the impact on the environment so the traditional thing which began which is impact of erosion in the park can be concentrated in areas that can be paved and hardened in a way that allows for greater use and you see the growing population of austin we know how important it is. We begin the journey

-- the quick five points here

-- and they

[15:55:17]

[indiscernible] in the southern part of the park, walking north at the kingsbury gateway. We see clutter, stone gateway and wash of sea of asphalt and we see them landscape islands and connected to walkways with safe access to people in strollers and aged to get in the park at a new gateway which is cleaned up and viewed as a way that has a little bit of clearer path into the park at a more inviting and attractive presence to really is one of the great parks of austin. This is accomplished by a small chess game if you will of maneuvering the existing facilities around, shifting them from the east side of the park to the west side of the park and clustering them in a more logical way and allowing them to be conceived in a new playscape area and a new lawn area which reaches out to the street providing a welcoming view and a view worthy of the park as one of the grand spaces of all of austin. As we move north of the area to volleyball area facing to lamar boulevard, looking south on the terrace bowl we see rogues on the creek, the landfill that was placed there and we see an area that is underutilized. Our intention with the proposed plan is to provide ways for people to get into the area, to enjoy it more fully, to provide better use of the park land, to continue the use of the volleyball courts and to provide grander and attractive access to the creek and celebrate shoal creek that is exceptional and cherished by many in the community. As we look in this which you say r clusters meadow area in the parkway zone, this is looking north to see how the park improves intersect by the work being done by the watershed protection department, the primary message of this image is to show that people will be concentrated at a few overlooks that will be more exceptional. Area for the banks will be revegetated and erosion reduced and people's recreational needs will be met by improved shoal creek trail. The next is the gaston screen area where shoal creek passes the creek twice and we look north to the existing area, which is tired and worn out and in the future will be restored, lawn improved, dog area continued and pavilion and history built in the background on a walkway that would focus activity in that area in a more attractive way and the last one is lamar terrace and you see on 29th street by now, blocked by a gate for access and lightly used and we see this as a great opportunity to concentrate resources in this area, building a shaped pavilion, a bathroom to allow access for the seniors from lamar senior activity center to use this area, by walking along the trail, sitting on the benches along restored lawn area and invited into ada accessible part in a very generous way in a multigenerational zone here which includes places for kids to play and elder and college students and the neighbor, residents all to mingle. That concludes a little tour of the park. I turn it back to kim.

[15:58:25]

>> This is the last slide and this plan has been taken by many planning boards and commissions, parks board, environmental board and has received unanimous support we spent a year of our time, thousands of hours of volunteer time and effort has gone into this plan. We are here to ask for adoption so we can get moving with implementation. We welcome your questions. O okay. Thank you.

>> Mayor Leffingwell: We reached the time of adjournment 10:00 p.M. Our rules are to adjourn at 10:00 p.M. Unless you are willing to waive the rules which requires action by the council. Mayor pro tem c

moves to extend the meeting beyond 10:00 p.M. Second by council member spelman. All those in favor, say aye. Aye. Opposed say no. Passes on a vote of 6-0, with council member martinez off the dais. We can go to our speakers now. Marianne doorman.

>> I am marianne doorman and I live near pease park and have been near the enfield homeowners association since its inception and I want to be brief and say we are excited about this plan and we have been working with the conservancy to make sure that our needs are being heard and that we -- we are excited and want this plan implemented. Thank you. V very good. Thank you. Richard craig. And you have some people donating time to you. If you need it ...

>> I don't think I will need it. [One moment, please, for change in captioners]

[16:02:13]

>> so that recognition, broadly based on the charitable foundation community, can act to leverage on going forward to implement the plan on the available city funds that might be available. And the last point I want to make is that as an organization ourselves, we have upped our game. We've hired executive director. We have office space, and we're ready to partner with our good friends at the parks department. We're no longer a garage band. So we're going to be set to hopefully get off to a good start in some early victories and getting some shovels in the ground if we can get the plan approved, and I'd ask you all to approve it tonight. Thank you.

>> Mayor Leffingwell: Thank you. Jim christianson, signed up against. And you have three minutes.

>> My name is jim christianson. I live right across from the park. I'm a property owner. I've lived there for 25 years. We've been in our neighborhood active in the park. One of my neighbors, tina comt areros and her husband sponsored fun runs for pease park. It's active like the plan started with the pease park conservancy. I personally lobbied to have the restroom closed. We've got countless bond meetings, got it listed as a line item on the bond election, and it was approved. So I just want to point that out, that we're not a johnny come lately, but if you read this plan it's acting like nothing happened here before the recent developments. I'm very concerned about this plan. There's a lot of things that have been said to you about the thousand comments that were made, but they don't tell you that 700 of them were negative. I had some endorsement letters. Look at the date on the letters. Many of those dates are mentioned before the plan was even out there for the public to make comments. It's been to a number of boards and commissions, but it hasn't been to the main board and commission. This is the national register district but you don't see it on the list that he provided to you. Why weren't they part of this process? I'm badly concerned about crime in this neighborhood, and part of this plan calls for removal -- not allow no-parking signs that many of our neighbors lobbied 25 years ago, 30 years ago to put in place to remove an element that had developed in the park. It's worked well for 25 years, but this plan calls for removal of that sign. I came before you several months ago on this development. You asked the parks del rio are to meet with those of us about the parking lot. None of that even occurred as part of this plan, even though the parks director promised you that they would meet with us over that parking lot which causes a lot of crime in this neighborhood. And finally, and I know this is probably going to pass tonight, but I have very grave concerns about the pease park conservancy. They've done a whole lot of good work, but they've taken the position of entitlement. They started out with a membership, taking \$40 from many of us, hundreds of us in austin, yet when they incorporated, they had no

-- they only have a board of directors. They had no members. Therefore, those of us  
-- there's no accountability other than to this board of directors. Pease park is not for sale to a board of directors. Pease park belongs to all of us. And so I'm concerned that as part of this plan, it calls for a partnership agreement. All I ask is that that be a partnership agreement that is public and everyone has an opportunity to participate in it.

[16:06:22]

>> Mayor Leffingwell: Thank you. Steve Davis. Gordon Maxim? You're Drew Gill? You have three minutes.

>> I'll be quick. First off. Thank you for hearing us tonight. I want to come before you and just let you know that this is

-- you've dealt with a lot of controversial issues tonight, and this is anything but. You know, this has gone through an unbelievable process between the three public hearings, thousands of survey responses. It's also gone before five boards and commissions and two subcommittees of those boards and commissions, passed with a cumulative vote of 30 to zero. No, sir, a single person on those boards and commissions voted against this plan, so quickly to wrap it up, I'm asking you to please pass this tonight so that we can get

-- we can get to work in creating that agreement with PARD, who's been a great partner through this process. We can start reaching out to donors who are excited about getting involved, as well as the charitable foundation, so I just ask for support tonight. Thank you.

>> Mayor Leffingwell: Thank you. Gordon Maxim Kelly? Is Gordon here? Okay. David Zanny? David Zanny? Mike McCohn? You have three minutes.

>> Yes, sir. My name is Mike McCohn. I'm here representing university area partners. University area partners has a great interest in this park as it is our regional park. There are some 50,000 students, and a good number of them were able to house in the west university neighborhood, thanks to the council's actions on the university neighborhood overlay plan. Great plan. Great effort by very dedicated group of citizens of Austin. It should be adopted. And that plan can be implemented, and I'm here to let you know how the city of Austin already has funds available for the implementation. In 2007, the city passed the parkland dedication ordinance, and it took off. And since 2007, 2100

-- over 2100 units have been built at \$650 per unit. That's over \$1.4 million available in the parkland dedication fee that could be utilized for this park. I hope you can use that money and direct the staff to begin considering using those funds to implement the plan. Secondly, we have the tree mitigation fund that the university neighborhoods have contributed, the development community, and when they've had to mitigate for the trees, it should be noted that they don't get any credit for the trees they have to plant under the streetscape plan. They only get paid for the ones they must remove to build to the property lines. I urge you to pass the plan, recognizing there are funds available to help implement it, and help this become a great asset to the city of Austin. Thank you.

[16:09:53]

>> Michael Owen. Michael Owen signed up against.

>> I'm going to ask for a continuance so that the others can show up. We're having a charity benefit this



weekend to represent the ronald mcdonald house. Gordon couldn't make it so I'm standing in in his stead. We're just asking for you to not vote on it tonight.

>> Mayor Leffingwell: Thank you. Ted siff?

>> Thank you, mayor and council. My name is ted siff. I'm here to convey to you personally the old austin neighborhood association's full endorsement of this plan and the shoal creek conservancy's full endorsement with this plan, with implements to the planners, wrt, and all the local consultant team that was put together, implements and applause and thanks to our partners, the pease park conservancy and pard. And well, as the spoke conservancy, look forward to helping with the implementation of this plan upon your passage. Thank you very much.

>> Mayor Leffingwell: Thank you. Les karnes. I believe we checked michael owen off?

>> I'm les karnes. I'm with the friends of the force foundation. We do eyore's birthday party out in the park, and for the rest of the year we're out there as volunteers, throwing mulch and doing other conservation things, along with the conservancy. Our volunteers enjoy being in the park. We know that pease park is important to austin, and it's important enough that our volunteers are out there about half the weekends every month. So please support this plan. It's a well thought-out plan, and after 40 years to finally see the park getting the care that it deserves, man, I'm happy to be associated with it. Thank you.

[16:12:13]

>> Mayor Leffingwell: Thank you. William head?

>> I'm bill head, mayor pro tem, council members. I've been hanging out and appreciate you're extending this

-- the meeting. I've been hanging out in austin parks for about 70 years now. Our back gate is about that of a block from the park on parkway. I'm very familiar with it. The people that spoke before pretty much did a good job of telling you what the facts are. Some people have objected, and having a public-private partnership, said the community shouldn't have any part in this, it ought to be

-- the city ought to do it. Well, those of us who have raised hundreds of thousands of dollars agree with that. We wish you could. They have

-- that's very important. For example, in central park, I imagine two or three of you have visited central park, about 87% of the central park conservancy is private funds raised by the various institutions and the people on the board of that. So it's very necessary to have that. Some have

-- when they saw how the boards and commissions vote was going, have started to say, well, we need to put this off for all kinds of reasons, because we have an election coming up, and they saw how the tes were going, with no objections, we need to put it off till we have a new council and, therefore, new boards and commission members. And I want just to tell every one of you that I'm very pleased to work with the council we have. We have

-- we never have a plan that completely pleases every person, you know, including me, but we've done an awful good job on it. We've worked on it. I just want to do I think it's time to move on understand a get going. Thank you very much.

[16:14:17]

>> Mayor Leffingwell: Thank you. That's all the speakers that we have. I'll entertain a motion on item 61. Council member riley.

>> Riley: Mayor, I'm going to move that we close public hearing and approve the plan.

>> Mayor Leffingwell: Motion by council member riley. Is there a second? Second by council member spelman.

>> Riley: If I could, I just want to give a word of thanks to everyone who has worked to hard on this plan, especially the conservancy who did so much to take shape, raise the funds, public interest, all the communications. There's been an amazing amount of work invested in this for a very long time and it represents the culmination of a lot of energy on the part of so many people who care deeply about this park, and I can't thank

-- I can't thank you enough. That means a lot to this community.

>> Mayor, just a comment.

>> Mayor Leffingwell: Council member spelman.

>> Of course everything

-- I agree with everything council member riley said. You've heard a lot of things over the last months, and 30-zero commission record is unprecedented in my experience. I think it's probably going to be 37 to zero in just a cup of minutes. Let me point out just one thing. The two negative comments we heard were about disk golf ball, which you could do anything except tear the park up all over again. You've done a great job in making accommodations for them in other parks around the city. I think that's terrific. The only other negative comment we heard was about that one parking lot. And that can stay on your radar screen because I'm not certain at all if you let people park in that parking lot, that will somehow create opportunities for crime, but there are a lot of things you can do to prevent that from happening in the first place, short of eliminating parking there. If you could keep that on your radar screen, I sure appreciate that. Thank you.

>> Mayor Leffingwell: Council member morrison.

[16:16:17]

>> Morrison: I want to echo everyone's thanks, as I went through the plan and got a tour on paper, anyways, it really sort of opened my eyes up to what pease park is. I don't think I really got it before. It's terrific attention and I'm excited about the plan. Appreciate council member spelman's points and I want to add to one other issue that was raised with concern, doing a partnership with conservancy. That is a document that is in agreement that would have to come to council. It will be terms and conditions apparent.

-- It will be transparent. We've had lots of conversations. I want to say if something like that is pursued, there can be a lot of conversation bit and have public discussion. We've been real careful about making sure the public interest is maintained in those kinds of agreements, so that will require more work, too.

>> Mayor Leffingwell: Okay. I'll just say I think

-- I really appreciate the job you've done. You've all done a great job. Conservancies, you are the future of the austin park system. You're not the first, but you're definitely not going to be the last. And I also want to thank the

-- the staff for doing a great job. 30 to zero, as council member spelman said, is not something we see often, but we appreciate everything all of you did. All those in favor, say aye. Opposed, say no? 37 to zero. Passes 37 to zero. Go to item 62. And while we're

-- before we start that, I know a lot of folks are here for items 51 and 52 and 20. Given the lateness of the hour, I would respectfully request that you organize yourselves to 30 minutes per side. Council may or may not decide to take that action. We would like to do it with your concurrence, as I said, given the lateness of the hour, but we'll be getting to you probably in the next 30 minutes or so. Okay. So go ahead.

[16:18:44]

>> All right. Mayor, mayor pro tem, me, I'm michael knox. Item 62: Conduct a public hearing and after the public hearing, consider a resolution authorizing the south congress preservation and improvement district for a five-year period. It encompasses an area of 22 acres, 25 parcels between south congress avenue

-- the city received a petition signed by over 50 percent of owners of property in the area and representing 50% of the value of the area. As required by state law, a plan has been prepared, five program areas of the plan are public safety, infrastructure, physical improvements, transportation, communications, marketing, fund raising, and economic development. Budget for these programs is approximately \$79,000 per year. It will assess at a rate of 20 cents per a hundred dollars, there are a number of exemptions including historic exemptions and properties qualifying for homesteads. As required by texas local government code, owners have been notified of this public hearing. After the public hearing, you're able to consider a resolution authorizing creation of the bid for five-year period, did you wanting and I have-year plan and budget, designating the improvement association as survivor for the bid. They're here to answer any questions, when you are ready to conduct the had you been hearing.

>> Mayor Leffingwell: Thank you. We do have several speakers signed up. Everyone is signed up in favor. Hint hint. Blair, you want to speak first?

>> Yes. I'm sharon smith and as required by the city's ethics ordinance, I need to advise you that I've been employed by the city for the last

--

>> Mayor Leffingwell: We were just talking about that.

>> So we

-- most of our speakers have had to leave, and we are more than willing to waive the remainder of our presentation unless you have any questions or would like me to make brief comments.

[16:20:54]

>> Mayor Leffingwell: Thank you, sharon. Is there anyone out there who has signed up to speak and wishes to speak? Okay. That concludes our list of speakers. I'll entertain a motion.

>> [Indiscernible]

>> Mayor Leffingwell: Council member martinez moves to close the public hearing and approve the

resolution. Is there a second? Second by mayor pro tem. All in favor say aye. Opposed, no, that passes on a vote of 7 to zero. Thank you. 63. We're going to go through these real fast.

>> Quickly, mayor, I'm virginia collier from the planning and review department. This is for full annexation areas, 63-69. The hearing is next thursday, october 23rd. Council will not be taking action, either this evening or at next week's meeting of the ordinance readings are scheduled for november 20th with proposed effective date of december 17th, 2012. In accordance with the city's annexation policies described in the imagine austin comprehensive plan, the city should annex areas in order to supply zoning regulations, protect the tax base, more efficiently deliver municipal services as much as public safety and utilities, coordinate the extension of these services throughout the areas. Our expanding territory subject to city ordinances, regulations and codes, annexation improves the city's base and improves growth and new development. I'll describe each of these seven areas in turn. However, upon annexation the city will provide full municipal services to each of these areas including services currently provided by other entities such as the county. Coast of the service plans for each of the following areas are available online in back up for each item. I brought copies along with me as well this evening or I'll be happy to send a copy to anybody who's unable to attend these hearings. The draft service plan includes three main components. The first is early action program, which includes services that will be provided in the area, commencing on the effective date of annexation. The second is the additional services section, which includes those services not required by state law but provided citywide. Finally, the capital improvement section would include anything -- any capital improvements necessary to provide services to the area. So item 63, the brakier valley area includes approximately 375 acres in northeastern travis county at blue goose road and cameron road. This is in the etj and adjacent on the east side of the track. This area is undeveloped and includes the brakier valley small lot single family subdivision. A portion is appraised forral culture, ad valorem tax purposes, and ever and property owners have option to enter into a development agreement with the city that would ensure the etj status while property is used tore ag purposes. They've accepted these development agreements and I'll bring these forward for council consideration in early november prior to consideration of the annexation ordinance. This would allow staff to revise the boundary of the proposed area to remove the ag tracks, as well as as well as blue goose recorder. The result would be only proposed brakier valley is annexed at this time. As described in the service plan, this concludes my presentation for item 63.

[16:24:18]

>> Mayor Leffingwell: Speakers, I'll entertain a motion to close the public hearing and approve the annexation.

>> So moved.

>> Mayor Leffingwell: Mayor pro tem so moves. Second by council member martinez. Those in favor say aye. Opposed, no. Passes on a vote of 6 to zero, council member spelman off the dais.

>> These are closing the public hearing. We don't have ordinances available this evening.

>> Mayor Leffingwell: Oh. Well, I think you better clarify that because we just annexed it, actually.

[Laughter].

>> Mayor Leffingwell: And that's what the posting language says, consider the full purpose annexation.

>> Well, it should be just conducting a hearing because we don't have ordinances. You have to conduct two hearings before we can consider ordinances.

>> Mayor Leffingwell: Well, I just asked, apparently we thought we already had them. We're posted for annexation. So we'll have to reconsider that one. Council member tovo moves to reconsider. Second by council member morrison. And so I'll entertain a motion to close the public hearing. All in favor, say aye. That passes on a vote of 6 to have, council member spelman off the dais. I entertain a motion to close the public hearing. Moved by council member tovo, second by council member morrison. All in favor, say aye. Opposed, say no. Passes on a vote of six to zero, council member spelman off the dais. And I believe item number 64 says the same thing.

>> Thank you, mayor. I apologize, I'll correct the posting for next week's hearing. This is only a public hearing and includes 23 acres in southwestern be travis county south of old bee caves road, approximately 130 feet east of the intersection of state highway 71 and old bee caves road. Again, this is in the etj and surrounded by city's full purpose and limited purpose jurisdiction. 240 unit apartment community is currently underway and scheduled to be completed in early 2015 so upon full purpose annexation, the city will provide municipal services to this area as described in the service plan, and this concludes the staff presentation for item 64.

[16:26:34]

>> Mayor Leffingwell: All right. No speakers, I'll entertain a motion to close public hearing. Motion by council member tovo. Second by the mayor pro tem. Those in favor, say aye. Opposed, no. Passes 6 to zero with council member spelman off the dais. 65 is the business of austin area, this is a 152 acres in south another one travis county, east of intersection of old lockhart road and bradshaw road. It's in the etj and current to the city's jurisdiction on the north side of the tract. This area is undeveloped and includes proposed vistas of austin, small single family lot subdivisions. It will will provide services upon annexation. This includes item 65.

>> Mayor Leffingwell: This is public hearing only again. There are no speakers, I'll entertain a motion to close the public hearing. Council member morrison so moves. Second by council member riley. All in favor, say aye. Opposed, no. Passes 6 to zero with council member spelman off the dais. 66 is the bridge point parkway area, includes 71 acres in travis county, west of capital of texas, approximately one quarter mile south of the intersection of city park road and bridge point parkway. This area is currently in the city's limited purpose jurisdiction, as well as etj, and adjacent to the city's you feel purpose jurisdiction on north, east, and southside of the tract. Although this is undeveloped, staff is proposing annexation at this time to ensure quality growth developable location and split jurisdictional issues in the future. We'll provide full services upon annexation as described in the staff plan and this includes item 66.

>> Mayor Leffingwell: No speakers. We'll entertain a motion to close the public hearing. Mayor pro tem so moves. Council member morrison seconds. In favor, say aye. Opposed, say no. Passes 6 to zero with council member spelman off the dais.

[16:28:41]

>> Item 67 is the park north area. This includes 49 acres in western travis county, west of fm 620, approximately two miles north of the intersection of 620 and fm 2222. This area is currently in the city's etj and adjacent to the full purpose jurisdiction on the east and southside of the tract. This area is undeveloped and includes proposed park north condominiums. Again, the city will provide full municipal services as described in the service plan and this concludes the staff presentation for item 67.

>> Mayor Leffingwell: Item 67 has no speakers. I'll entertain a motion to close the public hearing. Council member morrison so moves, council member martinez seconds. All in favor, say aye. Opposed, no. Passes 6 to 0 with council member spelman off the dais.

>> Item 68, the city of austin fm landfill area, includes 422 acres in south another one travis county at the southwest corner of the intersection of burleson road and fm 973. This area is currently in the city's etj and jurisdiction along the north side of the tract. Infrastructure improvements associated with the park, the austin remanufacturing hub, are scheduled to be completed by fall 2015. In addition to the city property, this annexation includes approximately 12 acres of privately owned parcels necessary to make the city property contiguous to the existing city limits along burleson road. Again, the city will provide municipal services to this area as described in the service plan. I believe the neighbors from the adjacent -- adjacent private properties are here this evening, and that concludes my staff presentation for item 68.

>> Mayor Leffingwell: Douglas machack? You have three minutes.

>> Three minutes and she gave me a picture. Victoria gave me a picture there. All right. All right. What they are doing is they are taking up 422 acres, and they want to grab my little bit, my little bit of heaven. They want to take it. I am three-quarters of a mile from any neighbor. I have no neighbors around me. I'm three-quarters of a mile going east, three-quarters of a mile going south, like two miles going north, and like two miles going west. So I am in a great spot. And now, they've got this big square, and they want to take that little spot right there. And what for? Oh, for

-- you know, it'll help hold our

-- austin together. Well, my little spot has travis county road on this side, travis county road on that side. They've got a nice little green fence there. Stay on you're side of the fence. Don't be coming on my side of the fence. Stay on your side of the fence. I don't want anything from the city. I've got great service from travis county sheriff, travis county parks, they come by all the time, wave hi to them, they do me great. I'm, you know, great for the community, got a lot of people that come around all the time. I do not want the city jumping over to me. That's

-- you know, good fences keep neighbors good, and they need to stay on their side of that fence. I don't want them coming across. Let's see, I have other things I had written down. Let's see, it wasn't in the original plans. The original plans was a square. They did not take my spot. Then somebody got some bright idea to move that line over to grab my spot. And to do that, they have to go into the park. I am right next to the travis county park right there, richard moya park, and richard moya park extends a long way. How come all that's travis county and all the side of this road is travis county? You come right up to that end, I'm the only piece that isn't still the park. But I am

-- I have the bike

-- what do you call it?

-- The bike route. They have like a little bike route where they ride their bikes. Actually, mr. Spelman came by. He was here three months ago or maybe two months ago. He rode his bike up there. I was like,

wow, gave me his card. But I told him, that's okay, as long as you all stay on that side of the fence, it's okay. But you come across my fence, you're picking on me. You know? I don't like that. And, let's see here. Let me see, austin

-- no services will be added. I've got electricity. I've got water. I have septic. I don't need any of your services. And all I will get is higher taxes on my little piece of land. All right

-- oh, that was my other

--

[16:33:43]

>> Mayor Leffingwell: Your time has expired. But you have another machack coming up. And you have three minutes also.

>> Good evening. I guess my brother really doesn't like you guys. [Laughter].

>> Mayor Leffingwell: Most people don't, so it's okay.

>> What I don't understand is why the city wanted to tie in from burleson road all the way to 812, and to do that, to tie into this 400 acres, you had to go through our property to do so. There's some ordinance that we had looked up. I don't have it with me right now, but anyway, the young lady before me mentioned something that we had to have a thousand feet to tie in this property to that road. And according to that ordinance, we looked it up and a thousand feet is not

-- it's not in the wording. So why tie us in? We're happy where we're at. The property is also historical piece of property. It's been there part of moore's crossing from years back. The store was rebuilt back in the 1890s after a

-- I think it was a tornado or something took part of it. They had it rebuilt. But I thought it would be a great place to keep it as is, if we can. There has been probably five different movies shot there. We also had several commercials done there with lance armstrong, milk commercials, you know. People like the neighborhoods, support our view, because they, as little kids, have come there, and now they bring their kids, and they want to see the place stay as is, not to modernize, not go down the street and it doesn't have the same effect as going to 7-11. You know? This is something that they really enjoy to see and bring their kids, too. So I'm hoping that the city

-- just miss our little park, and like my brother said, stay on the other side of the fence. Thank you.

[16:36:39]

>> Mayor Leffingwell: Thank you. Those are all the speakers so entertain a motion to close public hearing. Council member riley so moves. Council member martinez seconds. All in favor, say aye. Opposed, say no. Passes 6 to zero with council member spelman off the dais.

>> That brings us to item 69, the last area on our list this evening, the stonecreek ranch area, approximately 50 acres in southern travis county north of slaughter lane, approximately 2100 feet east of intersection of i-35 and slaughter lane. This is in the etj and jurisdiction on the southside of the tract. This area is undeveloped and includes a portion of the townhome project. This majority of this project is already in the adjacent full purpose city limits and the annexation will bring the remainder of the project into city limits, so to avoid having a city line across the million dollars of the project. If annexed, the city

would provide full municipal services to this area as described in the service plan. Copies are available this evening and that concludes the staff presentation for item 69.

>> Mayor Leffingwell: Okay. We have no speakers? Council member martinez moves to close the public hearing. Second by council member riley. In favor, aye. Opposed, no. Passes 6 to zero, council member spelman off the dais. Now we go to item 70. So do we have a staff presentation on this item? Just make sure, because we have these language

-- this is to consider the ordinance, to vote on the ordinance.

>> Okay. I believe it will be for first reading only at council member riley's request. Item 70 is to conduct a public hearing and consider an ordinance amending city code title 25 relating to regulation of efficiency dwelling units in multifamily zoning districts. In march 2014 the city council

-- I'm sorry, back in january of 2014 the city council passed a resolution asking the staff to look into what are commonly called microunits. Our staff did that and we produced a memo, a follow-up to that. March 2014, the city council passed a resolution asking the staff to removing impediments to the construction of microunits, which resolution is defined as efficiency units typically less than 400 square feet in size. What the staff found is that the current code does allow for current construction of these units, as does the building code, but then city caps and parking requirements may to some degree inhibit their construction. The proposal that was in the resolution suggested the using of what we call site area requirements, also known as density restrictions, and parking restrictions for microunits, along core transit corridors and future core transit corridors. The staff looked into this issue and our recommendation is to approve an ordinance that would define a micro-unit as a unit that is less than 400 square feet in size. This differs a little bit than what was suggested in the resolution, which was 500 square feet, to require 400 square feet of site area per each micro-unit or efficiency. This number was determined by the staff, as you all may know, the city of austin does not regulate density as units per acre, rather for each different multifamily zoning district, we have what we call a site area requirement for a efficiency unit, one bedroom units, and two or more bedroom unit. As you go from mf 1 to mf 5, the area required for each unit goes down, therefore the density goes higher. The square feet for each efficiency or micro-unit we're emg is half of the density restriction that would be in mf 5 for similar type units. So we took the 800, cut it in half and made it 400. That's how we arrived at that number. We recommend reduction in parking from one per unit down to .6 per unit. This matches the 40 percent reduction that is allowed in other incentive programs we have. To improve core transit corridors, to allow them in mf 1-5, to leave all other base site development regulations alone, and to require on-site affordability at a level 610% of the total building square footage at 80% mfi for a period of 99 years, for properties, and for 10% at 60% of mfi for 40 years for all rental units. With that

-- I'm sorry, the planning commission recommended denial of the proposal, and the

-- as did the cdc, if community development commission. They were not able to make a recommendation. And on tuesday, to refresh your memory, council member riley passed out a proposed amendment that was somewhat different than the staff recommendation. So I'm available for questions.

[16:42:06]

>> Mayor Leffingwell: All right. Do you want to say something before we go to the public hearing?



>> Actually, I would. First, if I could ask you a question, do you have a visual available there showing where bike microunits would be allowed under this ordinance? I did pass something out at the work session. Something has been raised about that, about the change that staff is recommending, and in micro, where it would allow microunits to be built. It's not in the places one might expect.

>> I have right here, I have in my box, grab a box of a list

-- a map of the corps transit corridors. I have a map of the corps transit corridor so I'll look that up.

>> That's not necessary. I know the hour is getting late and I just wanted to pass out a map showing highlight of the areas where the ordinance would actually have an effect, and it's actually just a sprinkling of places there, most of which are fairly

-- places that are fairly far out.

>> That's right, because right along the core transit corridors, it doesn't allow it, or

-- I agree with you it does not apply to many geographic areas.

>> Mayor, if you could, just in fairness to the speakers tonight, I would just like to briefly highlight the changes that I am suggesting so that as we hear

-- as we get input, we get input on those changes as well as the staff recommendations. I would like to see some changes to

-- from what staff is recommending. I think as I mentioned at the work session, I think the staff recommendation actually goes in some directions that we really don't want to be going. They actually complicate

-- a fairly complicated way of allowing microunits, with very modest changes that would come from having microunits, just not all that helpful. What I was proposing, change from 400 back to 500, change it to then a efficiency layout, I don't see why it's that important to us that there be a separate bedroom from living area, removes the requirement that micro-units only be loud on core transit corridors and future core transit corridors. A small unit should be allowed anywhere, it loud dmu, bmu and mf 6 zoning units where micro-units would be allowed. It increases the affordability

-- maintains the affordability requirement of 10% of micro-units, and would provide that

-- the affordability would be increased to 50%, so we'd be reaching a deeper level of affordability than we have

-- we get with bmu, down to 50% from owner occupied and rental, keep it from counting toward parking requirements, but all other regulations would apply. The requested with these changes is that we would have something scalable. You can have as few or as many micro-units in any project as you like. You would just be able to add them incrementally or have more of them. It would work on sites that have been opted into the dmu ordinance or are, as well as those that are not. It would be a bench

-- this would be a very simple approach, it would encourage micro-units near the center of the city and would have the proportional to provide deeper levels of affordability than would be with dmu or todd. So that was the idea behind these changes in case anyone wants to address that in their points.

[16:45:53]

>> Mayor Leffingwell: Okay. Council member tovo.

>> Tovo: Well, I have some questions about the proposal, the amendments, but it's

-- we'll let the speaker

-- well, actually, can I just make sure that some of my assumptions are correct? The ordinance that's before us requires 10% at 60% mfi of the entire complex for rental.

>> That is correct.

>> Tovo: And 10% of 80% of the entire complex for ownership.

>> That's correct.

>> Tovo: And the amendment before us would just be 10% of 50% mfi of the micro-units only.

>> That is correct.

>> Tovo: So it actually reduces the affordable housing component.

>> Yes. It would apply only to the units that are receiving the incentive and not to the whole building.

>> Tovo: And the extension to other kinds of areas including dmu and todd, is that still part of your proposal, council member riley?

>> Riley: I'm sorry, what?

>> Tovo: Does your proposal

-- hyphen a chance to look through the yellow copy but the description you gave us on tuesday would extend this to corps transit and future core transit corridors, including vmu and todd. Correct?

>> Riley: That's correct, yes.

>> Tovo: So that would get us back into the situation we discussed when the resolution was going forward, of providing

-- of competing with our existing affordability program.

>> Riley: Yes. The staff recommendation only

-- as I said, mf 1 through mf 5. Mf 6 already had limited density, so we did not recommend it in vmu, todd, gateway, riverside overlay or the future airport overlay could he have seen.

>> Tovo: As I read it, we would be waiving or lowering the parking requirements in the vmu or todd areas for lower levels of affordability because it's going to be cued off the micro-units rather than the total units.

[16:48:40]

>> Yes. The vmu ordinance provides for a parking reduction. This would provide for

-- will provide for park recommendation down to point 6, 40% off, the recommendation of council member riley would be to take it to zero required space.

>> Tovo: To zero required spaces, but it also, as I understand it, changes the percent of affordable units required, because it's just going to be cued off the percent of micro-unit rather than the percent of all the units.

>> That is correct.

>> Tovo: So it eliminates the parking requirement of vmu and todd for a much lower level of affordability. We're getting less from our

--

>> for a certain tie of unit, it does, yes.

>> Tovo: All right.

>> Mayor Leffingwell: We'll go to our public hearing, stewart hirsch. Three minutes.

>> Thank you, mayor, members of the council my name is stewart harry hirsch. Like most in austin, I

rent. I'm here to support council member riley's substitute micro-unit ordinance amendments. The staff recommendation to produce few efficiency apartments serving the poorest among us. Since there's no affordability requirement in the staff recommendation to ever serve anybody a 50 or 30% medium family income, and all our housing market studies have told us that's our most vulnerable population. It's the homeless veterans. It's the housing first people that you've spent hours and hours talking about, and that we've talked about as a policy. And why the heck would I recommend going to deeper levels of affordability in other changes? I call your attention to the book by initial michelle alexander, the new jim crow. I'm impressed with the forward written by cornell west when he reminds us martin luther king called for us to be love struck with each other, not color-blind to each other. To be love struck is to care. To have deep compassion, and to be concerned for each and every individual including the poor and vulnerable. We can pat ourselves on the back for doing mfi under affordability and never serving the people that I have helped serve with not-for-profits and 63 micro-units in the last three years. These are people who live on social security and social security disability, often are disabled or seniors. They are able to live in brand new apartments that rent for \$350 a month, in a part of austin where land sells for three million dollars an acre with a type of entitlement that you need to be able to build microunits. I would like to quote that my high school's most famous graduate, a guy by the name of dr. Seuss, who said, if I ran a zoo, I'd make a few changes. That's just what I'd do. And what I propose tonight is to take council members

-- council member riley's proposal on first reading and I would suggest getting rid of square footage because I think you'll end up with the same problems as rainy street, make it the five percent of total number of units, make it 40 years for affordability because that's what we do in rental pro formas, we build them off of 40 years, not out of 99 years. Make it 50% mfi so you can partner with not-for-profits to try to make this deal work, or with the veterans administration and other folks who know how to do this very well. And I'd also suggest you consider second and third reading, that you expand the fee waiver program so if you do 50%, you got the 80% and 10% smart housing fee waivers to make it work. I apologize for going over my time. Thank you.

[16:52:06]

>> Next we have david king. I know I saw

-- oh, there you go.

>> Thank you. My name is david king and I live in the zilker neighborhood. As you know, the planning commission voted 6-1-1 against this proposed ordinance. They indicated that the ordinance could be a good tool, but austin, as it exists today, isn't ready for these changes, these reductions of so-called impediments. It's clear they also indicated that it's clear that cities that have successfully implemented micro-units have very robust transit system and parking wasn't an issue in those cities. Austin has its fair share of parking and transportation issues, as we well know. It's premature to introduce micro-units on the eve of code next. It makes much more sense to introduce micro-units in the context of code next since we're going to be looking at the housing supply in our code anyway. Micro-units should be implemented with a comprehensive transportation plan and expanded rpp program so they fit together in a way that resolves the additional housing supply issue, parking issues, and density. The proposed micro-unit ordinance does not

-- would not do

-- won't do any good if put into place now. Please don't approve this code amendment because it will exacerbate the parking and traffic congestion that we have in neighborhoods and it won't materially address affordability. According to a september 6, 2014, report in the seattle times, micro-units have created an uproar from neighborhoods in seattle where impediments to micro-units have been significantly reduced. Seattle has a robust mass transit system and doesn't have the parking issues austin has, yet they have a backlash from neighborhoods from their micro-unit ordinance. Residents are concerned that micro-units are changing the fabric of their neighborhoods, creating parking issues and not helping with affordability. Seattle's microapartments shouldn't be considered affordable housing, says michelle thomas, policy director of the state of washington's low income housing alliance. And the city shouldn't shy away from regulation in the name of affordability. When developers build more housing, that doesn't mean rents go down elsewhere. The micro-units backlash is a big issue in the council elections in seattle today. So I hope you won't make the mistake and brush this out too soon. It's premature. Let's get a mass transit system that's more robust in place. Let's get this

-- these micro-unit changes into the next code code next. Let's make it part of an overall package, not it's too soon to rush into these changes. We're not going to get the benefits but we're going to get a lot of negative side effects from this. It's just too soon. Please don't pass ordinance. Thank you. One last point. Major changes to be would on out at the last minute, after the stakeholder process has been done, is, to me, disingenious. These should have been presented early on in the process. I hope you don't close the public hearing after tonight. Thank you.

[16:55:23]

>> Mary engle.

>> Hello. My name is maryengel. As you know, I live in the la north university neighborhood and I'm a member of the central austin neighborhood planning advisory committee. I'm going to read a statement from the campeck group. We met and discussed the council resolution concerning auxiliary dwelling units and the micro-unit housing. Concerning both of these issues, we asked the city council respect the neighborhood plans and the imagine austin comprehensive plan that promises

-- that promise that the neighborhood plans will be preserved. We recommend that the city council not pass blanket ordinances that will make the code revision process, code next, potentially more difficult. Personally, I think this is premature, as david king said, and I would ask you to take your time with this. We have a code revision process going on right now, and there's no reason to jump in and do something pell mell. Thank you.

>> Thank you, mary. Betsy greenberg.

>> Council members, my name is betsy greenberg and I live in the heritage neighborhood. I don't have a problem with small apartments, small studio apartments. There are two properties within a few blocks of where I live that are exclusively 400 square foot units. However, both buildings provide parking. The proposal to eliminate parking requirements is what concerns me. My named is bordered by guadalupe and lamar so there's a lot of cut through traffic on very narrow streets. Two-way traffic is often difficult and it's not unusual for one car to have to back up in order to let another car proceed, leading to an unsafe situation. Neighbors have applied for resident permit parking program and the last thing we need

is any new residential development without the usual required parking. As a user of the bus system, I find it appealing to think that people would move into housing without owning a vehicle. Unfortunately, this is an unrealistic expectation. A recent survey of portland, oregon's east side apartments, the ones with no parking, found that 72% of residents still owned vehicles. There's no way you can require people to go without a car. The majority of people, even young, cool apartment dwellers, can't rely on mass transit a hundred percent of the time. Perhaps micro-units without required parking would work well in locations with plenty of street parking, but not in my neighborhood and probably not in most of central austin. This citywide ordinance is simply inappropriate, and I urge you to vote against it. Thank you.

[16:58:34]

>> Thank you. Sorry. I was a little bit late. My name is dan keshet. I live in what would be, under the original proposal, a micro-unit that has no parking. I want to  
-- I want to start just by reading an e-mail that  
-- it was the e-mail that I received in I inquired  
-- I responded to then a ad off of craig's list looking for the apartment that I live in now, and I said, hey, how come this is so cheap? I don't want to come downtown to look at an apartment only to find out that it's, you know, covered in raw sewage. And the landlord wrote back to me, hi, dan. I'm showing the place tomorrow if you'd like to come by. The rent is low because the could understand oh is smaller than most one bedrooms downtown. The unit does not come with a parking space. I pay for water, trash, and basic cable to offset the cost of parking. What my landlord told me was, because the unit is small and it doesn't come with a parking space, the rest was cheaper and the  
-- and the utilities were partly covered. This is exactly what I needed. I don't drive a car. You know, you've heard from some other people saying it's unrealistic to say people are going to get around, only austin, only mass transit. I think that's true. I think you need mass transit, you need walking, you need biking, and you need, I propose TONIGHT, TAXIS AND TNCs. It is possible to live in austin without a car, but you need a cheap apartment, you need something that's affordable so that you can afford to pay for transportation when you really need it, like a cab or a tmc, and you need  
-- and you need a place where you're not paying for parking. I think that this proposal is excellent. I urge you to vote for it, and I think that you should go with the changes that stewart hirsch mentioned earlier. Thank you.

[17:00:48]

[One moment please for change in captioners]

[17:03:56]

>> we hear about how affordable is something specifically defined by city code but it's not true, it is part of what affordable is but it is also about living smaller sharing spaces and that's what this resolution does. In addition by eliminating part of the requirement for the small units you can easily save space because you are renting the square footage in a building. You are doing that in a small space, in the

living area and another part in the parking garage, then you are paying more because your rent is the landlord's price per square foot times the number of square feet you are renting, so it is really simple how the impact of affordability is to require people

-- or to allow people to be allowed to rent less space than otherwise they would have to. If you lived without a car, if you share a car, you can make this work. When we heard the stats about another city, where 3/4 of the people in the units might have had cars, you had one quarter in this area that didn't have cars. That's incredible. The more they lived there, the more that it makes it impossible to run on a bus line because more people live in the area. So it just makes intuitive sense that if you have less space that you are obligated to rent, then your cost goes down, just like it happens in my house. Thank you. T those are all of the speakers signed up tonight so I will entertain a motion on item 70.

>> Riley: Mayor. C council member riley.

>> Riley: I just want to briefly reiterate what I am proposing. What I would propose is that on a core transit corridor or a future transit corridor or a transit development district, micro-units do not count towards site area requirements or parking minimum requirements if the micro-units are provided at 50% mfi and with the understanding that at least one

-- if there is only one and that one would have to be provided

-- at least one would have to be provided at 50% at median family income. This is a very simple, straightforward approach. It will contribute to reaching deeper levels of affordability we would otherwise. It would not compete or undermine bmu but strengthen it and allow us to reach other levels of affordability and I don't suspect it will be a huge transformation of vmu projects. I think there will be incremental additions and we will make progress in providing additional options for those who do decide to live without a car. I appreciate the input from those and I can testify myself having lived without a car since 2008, it's really not that hard now. There are many, many, many options, especially if you are living and working in the central city. More and more people are choosing to go without a car. In fact, what we heard in the newer apartment buildings downtown, some 20% at last report of the people moving into efficiencies and one bedrooms were opting to forego a parking space altogether, they were given an option and 20% were saying, no, they don't need a parking space. Right now every single unit constructed in these areas has to come with an expensive parking space so we are all paying for that parking even when somebody doesn't choose

-- would not choose to pay that cost. And as a result, we get more on cars than if we actually embraced the idea that people might choose to live lifestyles where they do not rely so much on cars, and I think in many respects this is very consistent with the goals of the comprehensive plan. It is consistent with what we have been hearing from the code next consultants that need to find solutions simpler and provide more housing options and in particular provide

-- provide reduced levels of auto dependency, so I think this meets many city interests. I realize there hasn't been as much public scrutiny of this proposal of what I would have liked, which is why I presented this on tuesday and why I suggest we only consider this on first reading tonight so there will be more time for consideration for this before we move forward before it gets to final approval. So with that, mayor, I will move

-- as I said before, I move that we approve this on first reading only. M motion by council member riley to close the public hearing an approve on first reading.

[17:08:40]

>> Cole: Second. S second by council member spelman.

>> Morrison: Mayor. C council member morrison.

>> Morrison: So are you proposing this that's on the yellow sheet? Because it's not what you passed out on tuesday. It's significantly different. It doesn't sound like what you just described. I think there is a lot of confusion here, so what you passed out on tuesday said core transit or door, future core transit corridor, micro-unit don't count towards site

-- minimum parking requirements. That says that in your section b. Point-blank, buildings containing one or more micro-units must comply with the site area regulations except for site area requirements and parking requirements when the micro-unit is located and there is no conditional there, so

-- so on

-- so

-- so on core transit corridor, for instance, there is no parking requirement for the whole building if there is one or more micro-units in it. That's what is in front of us, as I understand it and that's not what is here and so I am very confused.

>> Riley: We were working with the law department on this and if the language needs to be adjusted to stay consistent with the intent I am happy to do with that.

>> Morrison: So is the intent what you passed out on tuesday?

>> Riley: Of course.

>> Morrison: Because what it looks like in front of us there is zero parking if if

--

>> Riley: No. T that is not your intent?

>> Riley: No, it is simply the microunit does not add to the parking requirements.

>> Morrison: Okay, if you look at section e we have in front of us on the yellow sheet, I don't know how else you can read it.

>> If I may I agree with you, I do think the ordinance here needs to be reworked to with the intent of what council member riley stated so we will work on that before second reading.

[17:10:43]

>> Morrison: So the intent is what you passed

-- let's u put this aside because it says something significantly different including that 10% of the square footage of the microunit building has to be affordable and your tuesday proposal was 10% of the micro-units have to be affordable, so it's completely

--

>> my understanding if I may restate for charity, a building of core transit corridor or future core transit corridor, square footage less than 5,000 square feet, and 50 tenant and rental and for those that are less than 500 square feet you will not have a parking requirement

-- is that your attention?

>> Morrison: I did not hear that on tuesday. It said explicitly 10% of the micro-units.

>> Yes, 10% of the micro-units, not 10% of the building, 10% of the micro-units was my understanding

on tuesday.

>> Morrison: I will put this aside because now I am reading two completely different things. So, in fact, so significantly it convicts with vmu?

>> What I would say the effect of vmu would be that vmu and the affordability requirement for the entire building, but you also have, as well as required mixed use and then what the developer receives for doing vmu is no density for all types of units within the building.

>> Morrison: Right.

>> As well as reduced parking and reduced setbacks. So this

-- of course vmu is only towards core transit corridors so it wouldn't reduce density for all of the units in the building but only the units that are less than 500 square feet and if they did 10% of them at the 50% mfi so I think it would affect vmu for a certain type of unit but not for the whole building, if you will. C council member tovo.

[17:12:53]

>> Tovo: Council member morrison, do you mind if I jump in for a second?

>> Morrison: Please do.

>> Tovo: For the vmu a lot of neighborhoods adopted the 60% mfi?

>> That's correct.

>> Tovo: So this would basically waive the parking requirements for an additional 10% of mfi

-- I mean you are lowering it from 60 to 50 but you are going from a reduced parking requirement to 0 parking requirement?

>> Correct, where the units are less than 500 square feet, that's correct.

>> Tovo: Can you talk lib about why the staff

-- the proposal

-- the resolution came forward to you asking you to draft an ordinance waiving parking requirements, eliminating them? The staff selected not to do that. We have before us a proposal that goes back to the elimination of any parking. Can you talk a little bit about the staff's rationale regarding parking?

>> The rationale on the parking, we have had several different, I guess you call them incentive programs to reduce parking. The urban core, we have the tods and vmu, et cetera, et cetera, but all of those, there is an overall statement in the code that says no matter how many of those you pile on top of each other, your total reduction cannot be more than 40%, and so the parking right now for efficiency unit is one space and so we decided to stick with that 40% maximum reduction and that's when we came up with .6 of space per unit rather than one.

>> Tovo: Why? Why did you feel there was

-- why did you, in your estimation, feel it was necessary to have a parking requirement, even more micro-units?

>> I think to stick with the rationale that was used in the other reduction programs that we want to reduce the parking if people do certain things, but we do feel a certain number of people will still have cars so it was decided by the council at some point that the maximum reduction for these incentive programs shall be no more than 40% and we chose to be consistent with that.



[17:14:58]

>> Tovo: Was it also based in part of the research you did? I remember you presenting us with a memo looking at some of the other cities and their experience after

--

>> yes, we did look at some other cities and there were some other things but one of the things we found that although there was a reduced parking demand there were some cities that had some buildings of micro-units but there was still a required

-- there was still a parking demand for the building and so we thought that almost cutting it in half would be a place to start but we didn't get to no parking at all because of issues raised in other incentive programs where it was decided to keep some minimum level requirement, in that case 60% of the amount required.

>> Morrison: I do have one more question for staff that. C council member morrison.

>> Morrison: The planning commission

-- you mentioned the commission's recommendations

-- I believe the planning commission, it was based on their thinking they should consider the context of codenext. Is that corct?

>> That's correct.

>> Can you tell me why they didn't they we should go forward with this.

>> We spoke with them and they didn't recommend it and we took it to the planning commission and I believe the vote was 6-1

-- 6-2-1

-- sorry, that was the cdc. With the planning commission recommendation, it was 6-1-1 and we just heard several members state that they felt that this may be a worthy idea, but that it needed to be looked into the context of other changes that were being contemplated and they thought it was something better handled by codenext rather than doing it individually right now.

>> Morrison: I guess I have concerns about it, too

>> I want to point out that we were just looking at the case downtown at 7th and congress and looking at something with no parking requirements and things do add up and come together, so looking

-- working on the issues like that one by one without comprehensive

-- without it being comprehensively, I believe, can lead us into trouble and is, in fact, has led us down the road that we are sort of surprised to get to right now. I am also very concerned about the impacts on vmu, because while micro-units are

-- obviously there is a place for them, we also have some pretty strong needs for larger units, too, and if this is going to be displacing larger units on vmu, we are not looking

-- I hope that we can see a future where we have families or kids living in apartments and that we can make things walkable. That would be part of the vision, I think, and this would discourage that.

[17:17:57]

>> Spelman: Mayor. C council member spelman.

>> Spelman: I am inclined to believe that completely eliminating parking requirements for micro-units is

probably a little too draconian, and something like a 60% minimum might be a better place to go. I would be persuaded otherwise but I don't think I would be persuaded 0% requirement for micro-units is appropriate. On the other hand even transit corridors or TODs and on the other hand the requirements for micro-units might be a reasonable thing to do. I think the reduction in affordability down to 50% is appropriate. This is not written the way according to the term sheet that council member Riley set out on Tuesday. I think we need to fix that stuff but I think it's easily fixable, and I particularly like some of the ideas that Stewart, Harry Hersh and who liked Austin

-- like most people in Austin who rents

-- I think that's your full name now, Stewart. [Laughter] Mr. Rent suggested that we made a few other changes which I very much would like to hear more about. It seems to me this is a really good start in a direction we definitely need to be going in. It's not perfect. I think we can iron out the other difficulties over another reading or two and I think it's something we ought to pass in first reading just to get the ball started. O okay. Council member Tovo.

>> Tovo: Mr. Rustoven, can you talk about why the staff recommended staying away from VMUs and TOD?

>> To a large degree it came from the neighborhood housing and community review department. Their concern was they thought they could summarize that the VMU was working, that people were doing VMU projects. They were doing the required on-site affordability in order to get the incentives that VMU provides which is reduced parking, unlimited density and reduced setbacks and they were concerned if we provide another incentive program that even though it addresses one type of unit as opposed to the entire building, I believe they were concerned that that would maybe disincentivize somebody from doing a VMU building if they could receive similar, although less benefits through the proposed micro-unit idea.

[17:20:20]

>> Tovo: So they have the same concerns that council member Morrison did, that it would incentivize micro-units from VMU and people would get more VMU.

>> I don't want to generalize but I believe that's that's correct.

>> Tovo: And the planning commission wanted to see this done more comprehensively but they were looking at a very different version of

-- they were looking at a very different version of this ordinance, one that still had some sense of parking requirements. This one has none.

>> Yes, the

-- they recommended that no action be taken at this time but what was before them was a staff recommendation, which did have the 40% off or the 60% required parking.

>> Tovo: Okay. Thanks.

>> Riley: Mayor. C council member Riley.

>> Riley: I would just add I have been in touch with my own planning commissioner about this, and he has seen what I am proposing, feels that

-- he says it's much better what we were considering and it is truly proposed something that might be used, unlike staff's proposal of limiting a handful of sites for parking requirements and he said that

everyone's agreement at the planning commission was the scope of properties wasn't going to make a difference. Therefore, why go through the motion the staff was proposing. Why add these complicated new things for such limited benefit, it was going to be in such

-- there was going to be so little benefit to it that it just wasn't worth it. So I don't think there was a unanimously shared sense that changes should just wait until codenext, it was that this particular proposal was

-- before them wasn't getting enough benefit to make it worth it.

>> I agree. The vote was 6-1-1 so it was not unanimous.

>> Tovo: Mayor. C council member tovo.

>> Tovo: Just to be clear, the information I gotten is there was a note from the subcommittee saying that even though it requires additional study on transportation approach on residential and permit parking program those of which are discussed in the codenext, and I don't know if that's the exact language or a summary.

[17:22:33]

>> It was a summary of the subcommittee's recommendation of the full planning commission, yes.

>> Tovo: And I believe, just based on the media I looked at, there were similar comments made for denial, not

-- not that it was so limited in scope as to be a useless document. I mean, there were

-- there were comments about codenext and the impact on parking.

>> There was a variety of com

-- comments from a variety of commissioners but some of them were in that vain, yes.

>> Tovo: Okay. F first reading only. All those in favor, say aye. Opposed say no. Passes on a vote of 4-2, with council member tovo and morrison voting no and council member martinez off the dais.

>> Morrison: Mayor. C council member morrison.

>> Morrison: Can I just ask, is the public hearing go to stay open on this? T the public hearing was closed. Closed.

>> Morrison: I guess I would like to suggest those who say yes to keep it open.

>> Riley: I will be happy to keep it open. C can I suggest we do it at the next meeting. You can always elect to open the public hearing and you can always ask for comment from specific individuals.

>> Morrison: I specific that but on the other hand folk want to know when they are coming down, they can know whether they want to speak.

>> Mayor Leffingwell: Do you want to make a motion to reconsider?

>> Morrison: I didn't vote for it,.

>> Riley: I reconsider.

>> Second. R riley moves to resecond. Second by spelman. All those in favor, say aye. Opposed? Passes 6-0, council member martinez off the dais. Council member.

>> Riley: I will change the motion to say passes on first reading but leave the public hearing open. S second. Motion by council member riley. Second by council member spelman. In favor say aye. Opposed say no. Passes on a vote of 4-2 with council members tovo and morrison voting no and council member martinez off the dais. So that brings us to items

-- we will consider 51 and 52 together.

[17:24:55]

>> Jerry rustoven again.

>> If the city clerk will emerge those lists, please, or make sure, so number 51. Npa-2014-001701, it is a request to change the land use to civic land use to multifamily use to mixed use and office land use and planning commission recommendation to grant mixed land use and the zoning case is case c142014-0036 and the korean united presbyterian church and the rezoning as listed and this is a 2.3-acre tract and existing zoning is lo-np and sf-3np and the staff recommendation to grant lo-muconp, combining district zoning with conditions, [reading number 52]. There is a valid petition of 28.74% against this case. If planning commissioner recommendation was to grant the lo-mu-np as recommended by the staff as opposed to applicant's request. The applicant has amended the request from the original flat out go-mu-co and now the applicant still requesting go-mu-co with the following conditions that the site be lo site development recommendations and uses with the exception of building coverage and impervious cover with limited to 1,110 trips per day and limit the height of 30 feet for the entire site except in area of about 10,000 square feet which will be limited to 40 feet in height. But the height for habitable buildings will be limited to two stories except for the 10,000 square foot area of 40 feet. Medical offices would be prohibited, and that there be residential uses facing cohen and half of hearty lane. The reason for the staff recommendation to recommend increase in zoning but not all the way up to lo was because we feel that between

-- up to hardie lane, basically if you look at the map I can give if ariel

-- sorry, it is not working

-- but within the backup, I believe you will see mr. Thrower's powerpoint presentation that basically the commercial zoning is confined to an area and appears that hardie lane would be a dividing line of residential and other areas of commercial multifamily zoning. This property was zoned sf3 because it was a church and multifamily and we believe enough zoning is appropriate but we could not get to go. With that, I am available for any questions. Apparently none. We will hear from the applicant. So you have five minutes. If you need additional time, you have someone donating 3 minutes to you.

[17:28:29]

>> Okay. That's fine. Set for 8 minutes.

>> I am sorry, am I up for 5 or 3?

>> Mayor Leffingwell:8.

>> Thank you, I don't think I need 8, but here we go. Good.

>> Ron thrower, representing the agent for the applicant in this case, again, as jerry pointed out the property is zoned lo for 1.3 acres and sf3 for a small size and a small mf3 and this is a diagram of the existing zoning map. There is the property outlined and the commercial properties are shown in red. Blue shows office properties and the multifamily, what is zoned multifamily today is shown in orange and single family on our property is the small corner, one acre at the corner, we are asking for that to go to office mixed use with lo zoning. So with this, let's look at the parameters for the development. Lo

allows for 40 feet. Go do allow for 60. We never said we are going to do 60. Only doing a 40-foot building maximum and it is only for the small piece on the far western side. Is setbacks along the front we are going to abide by lo setbacks, building coverage, we are asking for a little more equal to go and impervious cover we are asking for increase in impervious cover to the go standards and the far, the .7 to 1 versus 1 to 1 far, we are asking for the lo far on this property. And so, again, the only two parameters under go that we are asking for is building coverage and impervious cover

>> the development potential of the property under the existing zoning, you are looking at a property that can generate 1388 vehicle trips to day and with that comes 8 driveways out to cullen and hardie and the fight can be 40 feet on the lo property today, 32 feet on the sf3 on the sf3 property and 40 on the mf property and with go zoning we are reducing the number of trips that can be potentially placed on the property to 1110 and asking for two driveways instead of 8 on cullen and hardy and there is the conditions of the two office building with the small area of three story, and here on the plan, here is what is allowed 40 feet today, here is 40 feet allowed by zoning today and here is what is allowed 32 today and that is the sf3 portion and so what we are asking for

-- again and 8 driveways and 1388 trips we are asking that to be zoned to be 40 feet, that to be down to 30 feet, which is less than what is under the existing zoning and with that two driveways, limiting the vehicles to 111 vehicle trips. The conditions jerry went through but I think it is important we are preventing medical office huge. That is a huge traffic generator. This will only be professional office or administrative and business office. And the last diagram shows the proposed plan of what we are seeking at this time and we have an office building that is oriented towards the other office zoning located at the justin hardy county and we have multifamily hiding the garage, the garage will be three level structure and the multifamily would completely hide the garage in that intersection and we have multifamily across from multifamily zoning and again we would request your support for our request. I am available if you have any questions.

[17:32:18]

>> Spelman: Mayor, I would have one question. C council member spelman.

>> Spelman: Mr. Thrower, this appears this proposal is significantly different from the proposal than you showed me a few weeks ago and significantly different from what the planning commission saw. Can you point out the important differences between this and what the planning commission looked at?

>> The primary difference is the adding of the multifamily to soften up the edge of the parking structure around putting like uses across the street from like uses and like zoning and with that, we've also reduced the size of the building

-- the office building and reduced the side of the third story component of the office building.

>> Spelman: That story in the office building hasn't been set well back from the street so that it is furthest away from the street. How many feet away from the street is that?

>> I am going to guess it to be about 6120 feet away.

>> Spelman: That would be about right. Thank you.

>> Thank you. O okay. Go to speakers in favor. David kahn. Is andrea topowits here?

>> Right here. O okay. Gabriel sanchez. Andrea

-- it looks like you signed up twice.

>> Yes. Y you can't do that so you get nine minutes. 9 minutes if you need it.

>> Is it on? It.

>> 'S on.

>> Okay. Thank you very much for listening to our presentation. We own this property which is a 58 year old church and we have a difficult situation in the fact that we have three different zonings and what's basically being one piece of land or one user since 1958. We have a very old building, and we are real estate developers but we try to do really good work. I want to show you real quick some of the work that we have done. This is 42nd and lamar, we did an old building and where we did, that's where taco deli are. That's an old warehouse we had on 29 and south first

-- at 2901 south first and this is a warehouse we built in san antonio, it was in 1908 and now this is what it looks like today. These are different projects I have done in austin. That's six houses on lewis lane, four houses on hank avenue. This is an office building that was an old building from the hospital on 28th and lamar and we did it and now it is a much better looking building. We have built a lot of property in the neighborhood. We have been neighbors and good neighbors to all of these people. These are some of the houses that we've built. This is a two unit on cullen, which is a half a block away from our property. This is sat on justin lane which is two blocks away from our property. This is on allegria, one mile away from palo duro and we built two houses on woodrow and then another project on woodrow, and two miles away on woodrow, and on mccandles and so we have a very nice property. This is the property, it is close to these car dealerships. We have three zoning types. One of the advantages this property has is there is two bus lines on burnet so it is pretty close to the bus line. On top of that, it is pretty close to the metro rapid line which I think would be a great amoanty. This is the commercial services and retail, the office, the multifamily and as you see the property has been three different zonings. On hardy, and the other property, the neighbors have been saying there is a lot of residential uses but they are basically using it for what they are zoned, the office is zoned as offices, multifamily is rentals. You can see the amount of rentals and properties that are in that street. Those are

-- there is a petition. The petition is based on a lot of rumors and creating a lot of fear which is unjustified. The neighbors got letters saying we are going to build 100,000 square feet. Which is not true. The letters said we would be building 60 feet high, which is not true and the letter said to the neighbors, said we are going to have 3,387 trips, which we have 223 parking spaces, there is no way we would get 3,300 trips. Would this set a bad precedent if we rezoned this? We don't think so, because that's the map of crest view. As you see, it is solidly single family. There is 50 blocks fully single family and it is not really affecting any of those blocks. We are 90% surrounded by either multifamily or lo office, and out of the adjacent properties and across the street properties, only 10% are single family, and we are complying with the single family compatibility rules. What would be the impact of traffic on cullen? The neighbors talked about the traffic on cullen. What happens is cullen is a two way street and burnet is a two-way street and there is another street called burnet lane. They all meet there. There is parking by the retirement home there, so there is a very big traffic issue there sometimes. But we hired graham traffic consulting and they did a traffic study and there is only one car every 75 seconds on cullen and one car every 83 seconds on hardy and so on our corner it is not a real traffic problem. The traffic problem that you see today is the church. People are parking on the grass. They are parking, you see a median. They are parking on both sides of the street, so I think we are going to improve the traffic situation there from what the church is doing today. There is also a lack of sidewalks in the

neighborhood. You can see in red the areas that have no sidewalks. So we are going to increase the number of sidewalks. People were worried about what our project would like from the streets so at the suggestion of one of the council members we added multifamily shielding around the garage so you won't see if garage around the street and these are the projects

-- you can see that we are all very conscious about, you know, protecting the pedestrians and the city of looking into a big ugly project. We have shielded a lot of our projects with a lot of vegetation, and that's my presentation. Thank you.

[17:39:57]

>> Tovo: Mayor. C council member tovo.

>> Tovo: I have a quick question. Do you own the tract of land?

>> The

-- the property is owned by the korean church and they bought a really large property in pflugerville, and they are building a very large

-- a much larger church over there because they have been very successful, so we are

-- we have a contract with them and as soon as they move to the new church, we are going to be closing on it.

>> Tovo: Okay. Thank you. A all right. Now go to the speakers signed up against. I have an hour and a half of testimony against. As I said, I would appreciate it if you could try to work among yourselves to limit that to about 30 minutes, but if you have a preferred order, if you want to come up and you are signed up and you have an order you want to speak in, that's okay. Otherwise, I will go straight down the list. Just tell us your name.

>> Good evening, I am joe harbolobic and a crest view neighborhood and part of the crest view contact team and here to convey you the results with the developer and votes we taken in this matter. Contact team opposes zoning and land use changes this evening and can you deny those changes. The requested commercial land use and go zoning are not appropriate for interior neighborhood site and are incompatible with adjacent sf3 residential. Substantial traffic increases will occur on the neighborhood streets which include hardie and cullen. Justin lane has two requesting, one for downgrade and one for collector status and those will be impacted. It also states that any new development should respect and compliment the single family nature of the neighborhood and that commercial use should be discouraged from creeping away from commercial corridors such as burnet, anderson or lamar. The contact team proposed alternative sf4b. I realize this deviates from the request and staff recommendation, it was mentioned by at least one planning commission member as suitable and appropriate for this site. It also represents a compromise the contact team could get behind. With that, I will turn the remainder of my time to other neighbors. T thank you. Is that about 3 minutes?

[17:42:25]

>> About a minute and a half. K keep track of it. 2 minutes. Just let me know. Who is next? And how much time do you anticipate?

>> Not more than 10 minutes.

>> Mayor Leffingwell: 10 minutes. Okay. Sign him up for 10. That will bring us to 12 minutes.

>> Thank you, mayor. Mayor, council members, my name is Chip Harris. The proposed go-mu zoning alternate staff proposal of lo-mu, allowing the developers' planned office complex is not compatible with the surrounding, mostly residential uses in scale. It is contrary to our adopted neighborhood plan and fails to adhere to many of the city's zoning principles. The developers' proposed three-story, 60,000 square foot office building with a multilevel parking garage located in the interior of our neighborhood will not provide a transition between the higher intensity uses on Burnet Road to the west and the residential uses to the east and will result in setting a precedent for additional commercial zoning inside our neighborhood. In addition, it will result in tripling the volume of traffic on local residential streets that are narrow in nature and designed to function with traffic levels under 1200 cars a day, not twice that many. In city staff's review of the zoning request, they write, quote, "the traffic along Cullen Avenue and Hardy Drive currently exceeds the requirements established in section 25-6-160," end quote, and they go on to say that Cullen Avenue will need to be widened with this project. In addition, the city is requiring the developer to dedicate 45 feet of right-of-way from Justin Lane on the other side also for future widening. As planned, the project will create a large degree of on-street parking because the developers told us that signs as parking garage may only accommodate 80% of demand by design. What is important to understand here, while staff speaks eloquently about the detrimental effects of this track go and recommends lo instead, the reality is that given the developer's plan, as they have been presented to the neighborhood, approving lo zoning on this entire tract will not reduce the magnitude of the adverse impact resulting from this plan. The three-story height of the office complex and parking garage will tower over the adjacent one-story single family and duplex homes directly to the east and west of this property. Effectively destroying the residential character of the neighborhood and serving as a catalyst and precedent for additional commercial development within the interior of our neighborhood. The applicant's proposed development violates many of the city's zoning principles such as transitional use, spot zoning, being located on the major arterial, setting undesirable precedent, being incompatible with adjacent uses, and resulting, again, in detrimental impacts to the neighborhood character. In addition, this development proposal violates the neighborhood's adopted neighborhood plan approved by the city council in 2004. Our stated vision in the neighborhood plan is to preserve the residential character of the neighborhood and on the land use goal

-- one of the land use goals is that any land development or redevelopment should respect and complement the single family character of the neighborhood, something this development clearly fails to do. Item 8 on the list of top action items on the neighborhood plan is to discourage commercial uses from creeping away from commercial corridors. It doesn't get any plainer than that. One cannot simultaneously support the Crestview neighborhood plan as approved and support the zoning change. And I have passed out a map there since the projector is broken

-- and the map shows the uses of commercial and residential. The dark red triangle is the subject track. One of zoning principles states zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impact of the neighborhood character. Take a moment and review that case in light of that principle. One of the key words here is "uses." The principle doesn't say adjacent zoning. It says adjacent uses. That is critical in this case. Why? Because if we examine the adjacent and nearby uses we find the following

-- and I am quoting from staff's report here quote, "property is surrounded by residential uses on several



sides, end quote, not one, not two, but several. In reality, all but one side, to allow an office complex here would be tantamount to spot zoning and a violation of the zoning principle. As you move from burnet road to this tract, there is a duplex, fourplex and a single family home. Basically all of cullen avenue is currently residential uses. An office complex, maxed out under lo would not be compatible and the fourth site, it's a mix of residential and commercial, and what about that commercial? It's all one story. Developing a 3 story office complex would be totally out of scale and once again incompatible with the surrounding uses. I am asking you to adhere to the established zoning principles as set forth by the city to be a pedestrian in our neighborhood, walking up and down the street and asking simply, is this compatible. Our neighborhood does have a vision for this property and we welcome its redevelopment. While there is no demand for office space in our neighborhood, there is a great demand for family housing. To provide missing middle housing. While there is no demand for parking garages in our neighborhood, there is a great demand for special places, where families can raise their children. Our collective desire is represented in an unanimous vote by neighborhood residents, is to have this zoning on this property raised from civic to higher density zoning and the zoning be sf4b, this would be a win win situation, extremely beneficial for the owner and highly desirous by the neighborhood. Just want to thank you for your consideration. In an attempt to be brief, this concludes our presentation. If the council wishes, we have other speakers ready to make presentations, but given the lateness of the hour, and the unity of our group, we will end here. Depending on the council's wishes. O okay. Mr. Harris has spoken.

[17:49:59]

[Applause]. I assume there is no one else out there who has signed up and still wishes to speak? Okay. Entertain a discussion, a motion on item 51? We will vote on the two separately. You have 3 minutes.

>> Thank you, mayor. I will be brief. I just need to correct some of the things that were said. The parking garage that we are proposing for this item is not going to tower over the residential. This parking garage actually is designed at 27 feet. We are asking for a cap of 30 feet. Sf2 or sf3 in this area and sf3 on this property today is allowed 32 feet so we are under what is allowed today and under what is allowed across the street. The right-of-way issue that was stated 45 feet is going to be required to be dedicated, no, it is not accurate, 45 feet from the center line. It is actually 2 or 3 feet off one side of the property, so it's not that we are creating so much traffic to cause for basically another roadway to be built at 45 feet. Office is certainly a transitional use, especially in this particular area. Many years I have been doing this and many years at the very beginning there is a lot of desire to have if transition go

-- the transition to do from commercial to office from multifamily to single family. Over the last 10-15 years, there has been a lot of change and people have desired to have office as the transitional use prior to single family because people are gone on the weekend and people are gone at night and it's a quiet use and that's exactly what we are to posing in this

-- proposing in the location. We don't believe it is obnoxious use in the area, especially since half of the property is zoned lo today. You have the planning commission's recommendation which is the lo zoning organization by the planning commission and also offered up by city staff. We will amend that today and right now that we will accept the lo zoning on this property and just disregard the two go items that we had originally asked for and just go with straight lo-mu and with that, I am available if you have any

questions. C council member morrison.

[17:52:24]

>> Morrison: Did you consider the sf4b that the neighbors had suggested?

>> Briefly. If you look at how many sf4bs are existing in austin.

>> Morrison: Not very many, I know.

>> Not very many. If you look at the regulations associated with it, I can see why, because they are complex. One of them gives you a site area requirement for a building and one gives you site area requirement for the unit. Jerry can probably speak more to it, but probably

-- eloquently better than anybody, but we don't see that sf4b is an appropriate use for this site.

>> Morrison: Thank you.

>> Thank you.

>> Spelman: Mayor. C council member spelman.

>> Spelman: Mr. Thrower I think mr. Harris suggested you were underparked. You didn't have enough parking spaces to support people reasonably expected to be in the office building or multifamily. I wonder if you can comment on that?

>> We are providing parking to city code. City code allows 30% reduction in the urban core and we are banking on that to be adequate for this particular use. We could park it at 100%, but, you know, is the city going to support the goal of having reduced parking requirements to help the mass transit situation or are we going to try and overpark the properties to that provision, which is really not in compliance to the commercial design standards.

>> Spelman: So you are at 80% but also a block off of burnet and I believe I saw a bus stop, a brt stop.

>> That's correct.

>> Spelman: About a block away from your property. Is that accurate?

>> That's correct. At burnet and justin.

>> Spelman: Do you have a sense of how many vehicle trips per day there currently are on hardy and cullen?

>> I

-- off the top of my head, no, but I can get that for you.

>> Spelman: I know you didn't do a tia because you didn't need to but you had an estimate of how many vehicle trips you would be generating.

>> That's correct.

[17:54:25]

>> Mr. Collin suggested one car for every 80 seconds which is a number I can easily translate. I wonder the extent to which we would reasonably expect to be increase, what percentage increase would we reasonably expect to see on cullen and hardy and for that matter, justin associated with your development?

>> And, again, I don't have those numbers directly in front of me. I can probably dig those up or talk to mr. Kahn about it. But I would also then like to point out that under the existing zoning we can generate

more trips than what we are proposing.

>> Spelman: I understand that. If there is a way to dig those up in realtime, I'd appreciate it. Thank you.

>> Council member spelman, I do have the numbers. There was a neighborhood traffic analysis report with this case. The existing traffic on justin is 5,441 vehicles per day. At the time the nca was down, mr. Thrower is proposing capital of 100 and there was a different one and so presumption was 1,000 vehicles per day to justin for total of 6441. On cullen avenue, the existing traffic, 1,159, proposed to add 600 for total of 1,759 and on hardy, existing 1,045 with 400 to be added for total of 1,445.

>> Spelman: If you can give me a sense for what could be regarded for capacity as a neighborhood collector like justin or a neighborhood street like cullen or hardy.

>> I have to look it up on the code, they have a threshold for desirable operating level. I can look those up.

>> Spelman: If you can look those up, great, thank you. Maybe we can short circuit that. Have we rated the compatibility of traffic on justin and hardy? I know there is some second streets in the urban core that we have actually rated green, blue, orange, red.

[17:56:41]

>> Not aware of that -- of the neighborhood nta section of the code there is a desired operating level and we aren't supposed to recommend it unless they are doing things to mitigate it. I have the final recommendation of the nta, once that the

-- the applicant would be required to post fiscal for widening for up to 30 feet roadway for the part of the roadway of cullen and hardy drive and because of that, it was recommended they provide right-of-way to expand the roadway.

>> Spelman: 30 feet right-of-way meaning extending 30 feet into a 60-foot?

>> Says it would be required of improving roadway for 30 feet for entire street frontage, so 30 feet of total

--

>> Spelman: So more or less turning a two lane more or less into a four lane?

>> I believe for 30 feet for the roadway

-- not 30 feet for center line so it would be 30 feet total width on the roadway.

>> Spelman: That's adding a lane on each end, though, right?

>> About, yes.

>> Spelman: If you can check on what the recommended capability, I would appreciate it. O okay. I think we are ready for a motion. This would be on item 51 which is the flum issue. We will vote on the zoning issue separately. Council member spelman.

>> Spelman: Mayor I would like to hear about the traffic numbers but as far as a form is concerned -- do I need to filibuster more jerry or do you have a number?

>> No, I will redirect it from the traffic analysis, traffic in a residential collector street with a pavement width of 30-40 feet of desirable lane has almost 1200 vehicles per day. And so on cullen and hardy with the added traffic of the original traffic assumption, the existing traffic on those streets is 1100 and 1,000 and with the added traffic 1700 on cullen and 1400 in hardy so it would exceed the desired operating level in the code.

[17:59:09]

>> Spelman: Okay.

>> But the code also states that

-- so that the

-- in that case the staff should not recommend it unless there is mitigation proposed. In this case, mitigation was proposed of the dedication of right-of-way to accommodate widening of the street.

>> Spelman: How about justin, is that arterial.

>> Yes, I believe so. It was not included in the nta because it is a different type of street.

>> Spelman: Okay.

>> Yes, it's an arterial.

>> Spelman: Okay. I think that's probably what I needed to know. Mayor, given we are only talking about a long block

-- it is a long block, but it is only a block off of burnet road, given that the parking requirements are consistent with the city's requirements, although they are lighter than our usual, they are only, again, a block off of burnet which is a very

-- a street which we can reasonably expect to have a lot of bus traffic on and a lot of availability of alternative means of transportation, in light of the fact that the frontage on this property is going to be two stories all along the front and only three stories well interior 120 feet or so from the street, and in light of the fact that I am persuaded by mr. Thrower's argument that lo is, in fact, a transitional use and not a commercial use. It's certainly not the sort of thing we would expect to see on urban road but it is not at all inconsistent with being across the street from multifamily or single family housing. I move approval of the.

>> Boo.

>> Spelman: Yeah, I didn't think you were going to like it. I move approval of the staff recommendation. Motion by council member spelman to approve the staff recommendation. Is that to

--

>> Spelman: Mayor, my algae. Is the staff recommendation of mr. Thrower's more recent plan? I believe it is but I am not certain of that.

[18:01:12]

>> It was very similar.

>> Great.

>> Mr. Thrower's

-- [one moment, please, for change in captioners]

>> Mayor Leffingwell: Discussion? All those in favor, say aye. Aye. Opposed, say no.

>> No.

>> Mayor Leffingwell: Is that three no's? Council member riley?

>> Riley: I have some doubts about this, I'm not sure I would support it on second and third reading, but I appreciate the change providing residential perimeter garage so for first reading only, I vote aye to

keep it alive.

>> Mayor Leffingwell: Okay. That passes on a vote of 4 to 2 with council member martinez and tovo voting know and council member morrison off the dais. That takes us to item number 52 which is the associated zoning ordinance. Same

--

[18:03:14]

>> closed public hearing, approve on first reading only.

>> Mayor Leffingwell: Motion by council member spelman. Is there a second?

>> I'll second.

>> Mayor Leffingwell: Second by mayor pro tem. Discussion? Those in favor, say aye. Aye. Opposed, say no.

>> No.

>> Mayor Leffingwell: Passes on a vote of 4-2. Both of those on first reading only.

>> Mayor Leffingwell: Also man up, mr. Sadowsky.

>> Yes, I am. Good evening, mr. Mayor, mayor pro tem, council members, steve sadowsky with planning and development review. The case we have before you tonight is red river international house which comes to you from positive recommendation from staff and landmark commission but a recommendation to deny historic zoning from the planning commission. The house is located at 3805 red river street. It's at the corner of 38 and a half and red river, very prominent location within the city. It was built in 1947 and it is the city's best example of the international style. The main focus of my discussion tonight is obviously going to be the criteria of designation. First is architecture. I'm going to briefly take you through architectural precedence. The style as we know it stems from german modernism which predated the about bow house in 1911. It was developed by meyer and others and stressed very simple forms, rationality and functionality. The bow house later followed in 1919, again by walter grope just and van dero. It emphasized clean lines, angular comp situations and function. This is a factory in germany designed by walter gropeius in 1913. Here are some bow house designs in televiv dating the 1930s. What you can see here are all principles of german modernism and bow house coming together in architecture, very simple lines, angular comp situations. Next we have streamlined modern, which was an outgrowth of art deco. This is basically a movement of THE 20s AND 30s. Here's the national steel car building in hamilton, ontario. I'm showing you these examples from all over the globe to show you what a major movement in architecture this was, and what this house represents to us in austin. It's a streamlined modern house in los angeles. This is again taking on the bow house and art deco, a lot of curb surfaces, but still very angular design. Here is our own bone house on 29th street, our own landmark masterpiece of streamlined modern. Here's a more pedestrian view of it. And then we have the international se. And I want to tell you, several months ago I gave a presentation on mid century modern architecture for preservation austin, and the house at 38th and red river is the one that I started that lecture with because it really serves as the precursor for mid century modern, and austin is a city known for its mid century modern architecture. So this is where it all started. The international style emphasized a very radical simplification of form, and it stressed ba symmetry. I'm not going to go through all these details, but here is our house on red river. Actually, let me go back so you can see

these details. Rectangular forms, flat roof, ribbon windows, cantilevered projections, asymmetric alpha sawed. International style also stressed the use of non-traditional materials. We see the glass bricks, framing the front door, the casement windows, the cantilevered and projecting rim, and the fins on the house, which are basically its only ornamentation. You can see it better there with the holes in it. This house exemplifies and bodies every hallmark of style as it progressed through general modernism through streamlined modern. And it exists here in austin. This is a better view of the rounded corners on this house. Inside, and as a city, we don't generally go inside people's houses, but I was invited in, and I wanted to show you some of the details on this house that showed what an architectural masterpiece this is. Look at the railings for the staircase. These are all can cove ceilings in the bedrooms. The round shower. These are all aspects that went into the design of this house that really bring out how important stylistically this house is to the city. The house is built by arn brothers, which was -- they were a concrete contractor. Albert arn was a pioneer in concrete building, and he had patents for designing and building concrete building. So this house also represents innovations in concrete building techniques, which would fall under our criterion for architecture. Now, this is not to say that the house is in perfect shape. It's not. It has a lot of issues. These are some photographs of peeling paint, broken glass bricks, cracks. Last year the tenant in the house called in a complaint to code compliance because the ceiling had caved in on this house. The slab is failing. But this house is not structurally dependent on the slab, so the issues that you see here are things that can be remedied without requiring demolition of the house. The owner of the house had several folks come over to take a look at it. One of them provided them, her, with a cost estimate for repairing the house, and that cost estimate came out to \$476,000. Now, I've been in touch with this -- the man who made this estimate to try to get a break down of how he arrived at that cost, and he has not contacted me back with any information. Terry o'connell, who is a very well respected architect in the city, was invited to the house. She made her own analysis, and pat sparks, probably the most renowned structural engineer in the state, has also visited this house, and their reports are on the dais for you. Both of them believe that this house can be fixed. There is a lot of community value, seeing the number of people who have stayed here till midnight tonight to let you know how they feel about this house. The house is on a very prominent corner. I dare say that anybody who has ever made a trip around the university of texas campus or i-35 has failed to notice this house. It's that important to our architectural history in austin. Again, there are -- there are major issues with this house. And the property owner it is to demolish it to take care of those issues. But, council members, every once in a while, we have to put the property owner's wishes as second fiddle to what's good for our community. This house is so important to our architectural heritage that we have to do that this time. So staff recommends and the historic landmark commission both recommend historic zoning for this property. There's a valid petition on this, so it is ready for first reading only. Thank you.

[18:12:19]

>> Mayor Leffingwell: Council member tovo.

>> Tovo: I really appreciate that presentation. That was very interesting. You referenced some reports that are up on the dais?

>> Yes.

>> Tovo: Did you distribute those today?

>> Yes, I did.

>> Tovo: What do they look like?

>> They're on yellow sheets that have number 59 on them.

>> Tovo: Okay. Thanks.

>> Mayor Leffingwell: We have something from the applicant? Those speakers signed up in favor.

>> Yes.

>> Mayor Leffingwell: Terry o'connell, we have a list, I believe, of an order for those in favor. And first is -- you have carol atkins. Carol is here, so you have six minutes.

>> Good evening, mayor, mayor pro tem, council members. I know you're all tired. It seems like it's time for the ninth ending stretch. But we're glad to stay this long because we feel strongly about this case. We've been working on this for several months. I'm tonight speaking as a member of the preservation austin, but it is late and I'm tired. It's not the preservation

-- you know, preservation austin board, vice president, and long-time board member and neighbor to this property and to the owners of this property. From the beginning, we tried to work directly with the owner rather than doing some kind of public opposition or attention to this case because we believed that since dr. Browning, who represents the family and her mother, who's the sole member of the delta h corporation which owns the property, dr. Browning had presented the application for demolition based on her belief that the house had no architectural merit, and that its condition was beyond repair. She also said that no one would want to live there because of its location at a busy intersection. So no one would consider buying the property. We hoped that dr. Browning would be willing to change her plans if she learned that the house does indeed have architectural merit, and also structural integrity. She allowed us to have the house inspected by restoration architects, as well as prominent structural engineer pat sparks. Our experts expressed professional opinions that the house is a significant architectural specimen of streamlined modern and international style, one of only two in austin, as steve pointed out. They also testified that although the structure has suffered from lack of maintenance, it is basically sound and could reasonably be restored. Dr. Browning then allowed me to bring a prospective buyer to see the house, to explore a question of whether anybody would want to buy it. I brought a friend who immediately fell in love with the house and said he would be glad to buy it to restore it to designate it as a historic landmark and to put a restrictive covenant on it to maintain its use in perpetuity, as far as we can understand perpetuity. Having addressed all of dr. Browning's concerns, we thought that she would be pleased and glad to sell the house, but she said no, although she has no plans of building on the property, she just wants the house to go away, and the land to be kept in the family. And at that point, preservation austin began to speak publicly to the case. In the early 1960s, dr. Browning's parents and some of their neighbors formed the delta h corporation to purchase several properties on red river to protect the neighborhood from commercial creep as the hancock shopping center was being developed, and they were very concerned about what that would do to the residential character of their neighborhood. So they bought some properties to protect their neighborhood. It's been

-- the house in question has been used as a rental property ever since the early 1960s. Now dr.

Browning has expressed her fear that if she sells the property, she will lose control of it and it will fall

into the long feared commercial uses at last. But there is no stronger protection the property could have than historic zoning and the restrictive covenants. We take

-- we don't often stay up this late to talk about individual demolition permits, but sometimes we do when we think it's a very important example of what we need to preserve for our neighborhood. We have some other speakers that will address these things as well.

[18:17:24]

>> Mayor Leffingwell: Okay. So we'll go through your list. By the way, the total adds up to 36 minutes, so if you can make your remarks brief, it would help us out a lot. Angela reed. Three minutes.

>> My name is angela and I'm here to speak with

-- speak on behalf of preservation austin. We would like to express our support for a positive resolution, which at this point is historic designation, due to the request of the demolition of this home at 3805 red river. This house is an extremely intact and very rare residential example of streamlined modern style in austin as you heard and it is located on a very prominent corner at the intersection of two major thoroughfares which gives it great visual prominence. We understand the current owners have presented the house as being in a condition of deterioration and beyond repair and that a brief engineer's report to that effect was submitted to the hlc and to the planning commission. However, we also understand that pat sparks, a prominent local structural engineer with extensive experience in historic buildings, has also visually inspected the house and his report indicates that minimal structural intervention is needed. And I will add that he also did that for free. Preservation austin hopes that the owners will be persuaded by the value placed on this house by the community and knowledgeable experts to change their plans and either restore the house or sell it to someone who will undertake its restoration. We know of one potential buyer, as you've heard, who has offered to purchase the property if the owners are willing. We hope for a good outcome that will allow for the continued productive use of this house, as well as provide the current owners a financial return for the stewardship of this important architectural landmark. Preservation austin can provide information to the current or new owners regarding financial incentives, such as local, state, and federal tax incentives that may be available to assist in that type of rehabilitation. We're joined here with other organizations like mid tex mod and preservation texas in advocating for a positive resolution for this very important building. The loss of this home would constitute a significant and irreplaceable gap in austin's architectural history, and it would be a decision that cannot be deferred. We urge all of you to consider options that maintain this important cultural asset. Thank you.

[18:19:55]

>> Mayor Leffingwell: Thank you. Next is tracy hudson.

>> Good evening. I just wanted to take a moment to read a couple of excerpts from two letters that you have already received. The first one was written by a gentleman named gregory smith. And greg is the director of the national register program in texas. He's

-- also works for the ghc which is the state arm that administers that program. What's interesting about his letter is it's actually a determination of eligibility letter. It's not just a letter of support. He essentially



states that, regarding this particular house, it is no doubt the most prominent house of its type and style in austin. The house is eligible for listing in the national register of historic places under criterion c in the area of architecture. He also went on to talk about how the texas historical commission strongly urged the owner consider alternatives to demolishing the building. And he goes on in that capacity. What's nice about his letter is, he's actually representing two of the most significant historic organizations on a national level and on the texas level. The other letter that I wanted to emphasize was the one written by evan thompson, the executive director of preservation texas. His is particularly nice in how he articulates what this house means. This house represents a rare and intact example of streamlined modern architecture in austin, architect of this period is at risk statewide, and every effort should be made to retain landmark examples, particularly those that are situated at very prominent, visual intersections. We pride ourselves in austin in using our resources. Saving this building would champion all these qualities that make austin a special place, and protecting 3805 red river will set an example for communities that we work with across the state, who also struggle with the protection of ability at your. Austin can ill afford to lose such a valuable example of a rare moment in architecture that so many people care deeply about. This community landmark can be saved through your actions tonight.

[18:22:33]

>> Mayor Leffingwell: Thank you. Ann graham.

>> Good evening, mayor leffingwell, mayor pro tem cole, members of austin city council. I'm here tonight as a member of the preservation austin board of directors and as resident of austin living across hancock golf course from this residence on red river, and a long time supporter of preservation of diverse properties across austin that reflect the richness in our cultural heritage. I'm also here to read a letter that you all received today electronically and members of our board did, written from steven fox, and I wanted to record this into the record. Steven fox is an architectural historian with specialized expertise in the architecture of texas. He's a lecturer at the school of architecture at both rice university and the university of houston. Mr. Fox is highly involved in the work of houston mod, the regional chapter based in houston. He authored several books on architectural history in, the. After learning about the proposed demolition of this house he wrote this letter. Mayor leffingwell, mayor pro tem cole and council members. I'm based in houston and one of the contributors to building of texas central gulf coast guide book to architecture in texas that includes austin. I write to you at the encouragement of advocates in austin seeking protection of the building at 3805 red river street through application of historic zoning. The house at 3805 red river is a distinctive example of mid 20th century modern characteristics. It's flat roof over hanging, second floor covered deck, pylon with circular indentations, blocks, sidelights framing the front door, steel sash, windows, and exterior stairs are the occasional combining elements from which the building derives its identity. This is worth preserving. Sincerely yours, steven fox. I urge your support to grant this for zoning. Thank you.

[18:24:41]

>> Mayor Leffingwell: Thank you. Carolyn wright.

>> Hi. Thank you for your time. My name is carolyn wright. I'm a professional architectural historian. I'm

speaking as a board member of mid texas mod. We're the central texas chapter of yokomomo, dedicated to the recreation and preservation of design. Resent a letter to you stating our you know equivocal support for the proposed landmarking of 3805 red river. The house clearly meets the city's cry for designation as a historic landmark and meets the intention of the sections of the city code that allow important resources to be designated in lieu of demolition. The house is being recommended for designation because of its architecture and community value. The house as you've heard is a rare example of a short lived architectural style and is a textbook example of that style. Outside of major cities, most towns have few examples of a structure like this. We have two. Partly because of the uniqueness of the style and the visual enthusiasm that the style expresses, these buildings all tend to become well-known and loved in their communities, which is true for this house. Chapter 25-232 of the city code states a property is significant for its community value if it has a unique location, physical characteristics, or significant features that contribute to the character, image, or cultural identity of the city, a neighborhood, or a particular group. This house has all of those things. Nearly everyone in the city knows this house because of its prominent location and its unique appearance. Nearly everyone loves this house. Organizations initial facebook post about the proposed demolition of this house garnered 27,000 separate views within a week, with a lot of dismay and disbelief that someone would want to demolish the house. Yes, many people jump to the conclusion that this house -- that the property had been purchased by an out of town developer because that is often what we see, but also because no resident of austin could imagine that another resident would want to tear this house down. In fact, those of us in the preservation community that have met with you all have even heard some of you express that you view this house as a community landmark. Throughout this process, we have commended the property owners for the decision to purchase the property 50 years ago, to protect the neighborhood character. However, we argue that the house now deserves the same protection. Some people see neighborhood character defined by the use of the properties. We also see it as the collection of resources that make up the physical neighborhood and tell that neighborhood's stories. We know that arguments in this case ultimately come down to protection of private property rights, and we do respect those, but we believe that this particular resource is significant enough to the hancock neighborhood and the city to warrant a rare action from the council in approving the proposed landmark designation. Thank you.

[18:27:32]

>> Mayor Leffingwell: Our next speaker is terry o'connell.

>> Thank you, mayor, mayor pro tem, and council members. My name is terry o'connell I'm an ability with o'connell hudson here in austin. We specialize in historic buildings. I'm former are president of preservation austin. The architectural significance and value of this property is supported through testimony you will hear or have heard from numerous local and statewide oranges. In fact, in my 30 years in preservation in austin, I've never seen such an amazing public support for a building like this from organizations statewide. This really has been an incredible experience so far. With that in mind, though, I'm only going to address the very functional concerns that have been raised about the viability of saving this landmark piece of architecture. In response to concerns expressed by the landmark commission in one of their early hearings on the case, I visited the property on july 22nd this year with

pat sparks, a respected structural engineer that we work with on a regular basis. The intent of our visit was to respond to concerns expressed by the owner and their paid consultants regarding the causes and extent of deterioration at this property. The structural engineer who had been hired by the current owners has no experience working with older or historic properties, as demonstrated on their website. They incorrectly state that the foundation is not repairable and needs to be demolished. He goes on to say that the structure is unsafe and unstable, a hazard to public safety. In fact, pat sparks determined that the foundation is not in failure at all. It is the first floor slab that has failed, in part, because doesn't it appear to be tied to the foundation at all. The foundation that supports the exterior walls is sound, but the slab-on-grade needs to be removed and replaced. The image used is the cover of the engineer's report for the opposing counsel even shows a non-structural element as a demonstration of why this building needs to be demolished, but it's a non-structural element and very easily repaired. I'll cut to the chase. Our

-- we gave very detailed recommendations of the scope of work that we would recommend for repairs to this building. It's all standard fair, the things you would expect in rehabilitation of a building. I won't list them out here, but, you know, the basic things that need to be done. Pat sparks concludes in his

[18:30:01]

report: The structural foundation is not damaged, nor is the house unsafe as asserted by the owner's engineer. Contrary to the conclusions made in that report, the house is structurally stable. The exterior walls do not need to be underpinned. The interior floor slab can be replaced without disturbing the load bearing walls. Rehabilitation of the house is feasible, and there is not a structural reason that the house should be demolished. The required structural repairs are primarily associated with the wood framing and the first floor slab, not the foundation or the load-bearing walls. And this letter is signed and sealed by pat sparks, july 28, 2014. The contractor who the owner hired to provide

-- okay. I thought I had donated time.

>> Mayor Leffingwell: I see heather

-- how about charles

--

>> here.

>> Mayor Leffingwell: Six minutes if you need it.

>> I'm on my last page.

>> Mayor Leffingwell: Okay.

>> The contractor who the owner hired to provide construction costs made a judgment call to say that the house wasn't worth renovating. The scope they defined for the renovation was extensive, I would say somewhat too extensive, but even so, that contractor's estimate was \$476,000 to renovate. There are people all over austin who invest that amount of money or far more in renovations of less architecturally distinctive properties and quail distinctive properties, and they get their value out of it because that is the character that we want to preserve in austin. There are numerous projects in del wood, for example, of mid century modern ability at your where people are investing that kind of money, and with great joy. As a rental property, this renovation would qualify for the new 25% state tax credit for the rehabilitation of historic income-producing properties that could continue on as a rental

like it has in the past. The site currently has 20% impervious cover, and there's plenty of room in the back of the lot for an addition or new construction. There are people who are interested in purchasing the property, as you've heard. The fiscal cost to rehabilitate the property are worth it to many people who know that the architectural value of this asset is hard to monetize. In conclusion, once a building is although of the to demolition, it can never be brought back. The fact of the matter, this is a distinctive, recognizable, character laden property that so many people in austin know and love. It's so well-known also because of its location at the lighted intersection of two major roadways, and it is along the path of a proposed light rail line. It's part of our unique history. There's no other building like it. It's salvageable, it's worthy of preservation, and most to the point of the item on your agenda tonight, the house and garage fully meets the criteria for austin landmark designation. Thank you.

[18:32:58]

>> Mayor Leffingwell: Thank you. Tyson McGhee? Question for you.

>> Terry? I obviously can't hold you to an exact number, but we do have one number in front of us of over \$400,000 in renovation costs for a house which has an appraised value of a little over \$400,000.

>> Uh-huh.

>> Could you give us another number which is consistent with your understanding that we don't have to shore up the foundation, all we have to do is replace the slab and some of the wood?

>> I can. I've done a rough estimate of that myself. The scope of work that they based that dollar value on included replacing the windows and doing some things that aren't actually necessary in this building. I would take a different approach, a more rehabilitation approach. I can see how there could be \$400,000 invested in this property to make it up to modern standards and fix it all up properly and replace all of the damage. It has suffered from years of neglect. It really has. And it's had low rents and years of neglect, and there is some work that needs to get done. So I would bank on 400,000 as a possibility. Of course, the range depends on finishes and features that the owner would want.

>> If all you wanted to do was make it structurally sound and up to building code, up to housing code, would it require \$400,000 to do that?

>> No, it wouldn't, but I haven't given it any more

-- that 400 would fix up your kitchen, your bathroom, it would

-- to bring it up to building code, probably be more like 300,000, but that's just really rough.

>> Okay. Thanks.

>> Okay.

>> Good evening, mayor and council members. My name is allison McGhee, and I'm the president elect for preservation austin. When this case was presented to the planning commission, the planning commission recommended against designation, and comments were made by members of that body regarding this being a taking of the property without compensation. In 1978, the landmark case of penn central transportation company versus new york city, it was determined municipalities had the constitutional right to impose restrictions through the historic designation zoning process, and in doing so, did not violate the fifth amendment or affect taking of an owner's property without just compensation. Since that time the u.S. Supreme court has passed down numerous other decisions that support a city's ability to inability these and other zoning restrictions on property owners, mostly based

on the finding that the application of zoning laws to a particular property isn't a taking if the regulation advances legitimate state interest and does not deny an owner a viable use of his or her land. In fact, these decisions by the court are what allow the planning commission and the city council at every one of their meetings to make decisions that restrict property owners from the unfettered use of their land by imposing limits on use, size, height, et cetera. And we heard very similar cases just this evening. Without such a right, the city of austin would have no ability to govern property use and building design in any way. In the case at hand, designation of the house at 3805 red river does serve to advance legitimate interest of the city by saving an important part of our heritage, maintaining the property in a viable, beneficial use, versus leaving an empty lot at a prominent intersection. And keeping the demolished building materials from being placed in the landfill. So I respectfully request that council vote to approve the historic zoning of this unique house at 3805 red river street to ensure that this building is maintained for the benefit of the community and for the future. Thank you.

[18:37:05]

>> Mayor Leffingwell: Okay. Terry myers.

>> Hi, mayor, mayor pro tem, commissioners, maybe the last time, I am a member of the austin historic landmarks commission. I am laura morrison's appointee. In my six years on the commission I've never come to you to plead a case, but this case warrants it, in my opinion, and in the opinion of the landmarks commission. I want to be clear, I'm not speaking on behalf of the landmarks commission. I only want to explain how this case came from us to you. The landmarks commission is made up of your appointees. Together, I figured today we have more than 150 years experience in our respective fields. I think we could be considered historic, too. Our expertise ranges from

-- we have two architectural historians, two historic architects, figure that one out, archaeologist, planner who specializes in historic properties. This demolition request was presented to us by staff, steve sadowsky, a presentation, we discussed it at length, and unanimously, something we don't always do, just as you don't always do, with he voted to initiate historic zoning. It came back to the landmarks commission and we again discussed it. We saw presentation. We of course heard from the applicant, and again, we voted unanimously to recommend historic zoning for this. This is only one of two streamlined modern buildings in austin. This is truly a landmark in the hancock neighborhood where I live. I'm only two blocks from the house. You cannot drive down 38th and a half or red river and not see this house. Usually it's while you're sitting in traffic at the light. There it is. It is truly architecturally a landmark, but also, from a community valued standpoint, it's a landmark. And as terry said, the other terry, as terry said, when it's

-- when this is gone, if this is torn down, you don't get it back. Somebody else comes in, they say, oh, we're going to build another one. We're going to build one just like it, it's never the same. This is the real deal. This is the true, real, McCoy. This is something that, if it's gone, it won't come back. And the landmark commission recognized that, and both of its votes and its deliberation on it, and I wanted to share that with you because I think it is very important. Thank you.

[18:40:13]

>> Mayor Leffingwell: Okay. Last speaker is Katherine Echols, last speaker in favor.

>> Thanks for listening, mayor, mayor pro tem and council members. I think you all know I'm Cathy Echols. You've seen me usually for housing and schools and family issues. By the way, thanks to all of you for passing schools and family resolution on consent this morning. But you've never seen me here on a historic zoning case. I care about historic preservation a lot. This is the first time I felt so strongly about preserving a property that I dragged myself down here and waited around for a bunch of hours. This house is just that special. Why is it so special? Well, you've heard a lot about why it's special. It's a wonderful example of the era and very rare in Austin. Its prominent location means that it's been seen and enjoyed by generations of Austinites. Nearly every one I mention it to knows the house and does not want to see it demolished. In fact, even my ten-year-old daughter, when I briefly described the house, knew exactly what house I was talking about, said that she really liked the house, and was you upset to learn that it could be lost. To put that in context, it is difficult to get this kid interested in anything that doesn't involve mind craft, the book she's reading, or Selena Gomez's latest hits. So I'm shocked she even noticed the house and even more impressed she cared about it so much. My 14-year-old, who also was upset the house was at risk, gave a typically teenager's response. Really? They're going to demolish something like that? I mention these responses because I think they're a reflection this house has on people. I want the next generation of kids to also have an opportunity to enjoy this wonderful house. I'm trying to speak for the people who love the house, but aren't connected enough to come to council, or don't even know that the house is endangered. It would be a tragedy to fail to protect this wonderful house. As you've heard, the building is completely restorable. There is somebody who would be willing to buy the property to restore it and restrict its residential uses if the current owners aren't interested in preserving it. Given its wonderful character, its uniqueness and prominent location, this is exactly the type of building that should get historic landmark status. Please vote for historic zoning.

[18:42:49]

>> Mayor Leffingwell: Now we'll go to speakers signed up again. Karen?

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>> Mayor Leffingwell: You're saying you already had 36 minutes and you didn't get on this list, that's why I didn't call your name. But if you want to speak, you're entitled to speak. That will be

--

>> good morning. How are you all? Thank you for listening to us. I just wanted to say my name is Linda Guerrero. I was born and raised in the Hancock neighborhood association. I wanted you to know that a lot of kids, when we're little, we nicknamed it the boat house. It just was so grand and huge to us. And when you talk about landmarks in our neighborhood, you say, oh, there's the Perry estate, there's the golf course with the old, you know, original country clubhouse, and then you go down and there's the boat house, and then after the boat house

-- well, there's the tower down there. So it was always included as a very significant structure to us. And also, just as those families gathered together and realized the importance and significance and the critical place and location of this house, back in the '60s, it's just as important today. It's just as vital. -- Just as vital and significant. It has not changed. I do want to say that this city is great because we don't

give up on neglected children. We don't give up on neglected trees. We don't give up on neglected animals. And I hope we're not going to give up on a neglected beautiful house. Thank you for your time.

>> Mayor Leffingwell: Karen browning. Is mark browning here?

>> Yes.

>> Mayor Leffingwell: So you have up to six minutes if you need it.

[18:44:52]

> Thank you all for staying so late. I'll try to be very brief in my remarks. My name is karen browning. I'm representing my 95-year-old mother who is the sole shareholder of delta h corporation and owns the property at 3805 red river, and is opposed to historic zoning. This zoning request originated by the historic landmark commission was when a demolition permit was filed, as you understand. My mother has resided in this neighborhood for over 60 years. I was born in that neighborhood, not far from this house. So I know this neighborhood quite well. There's a 50-plus-year history of the delta h corporation and shy family protecting the neighborhood, as I believe lynn mentioned, to retain its residential occasional. I want to point out that the purchase of the corners by delta h corporation had nothing to do with the houses. It was to protect the property. And that happened when the back nine holes of hancock golf course were sold off to form hancock shopping center, east 38th and a half became a thoroughfare instead of a dead-end street on the golf course. The intent of the neighbors that came together to create that corporation was to ensure that these corners remained residential to preserve the occasional of the neighborhood, aing my that's been maintained over the last half century by my mother. A long time austin resident and musician, tom pittman, rented the house and occupied it for over 15 years. He subsequently sublet it for an additional 10, so no are a quarter of a century, tom pittman took care of the property. He decided to retire about a year and a half ago and move to north carolina. An e-mail from mr. Pittman shared at previous meetings of both the historic landmark commission and the planning commission, tom, based upon his deep knowledge of and his own attempts to maintain the house, that demolition is appropriate. The reason for the request to demolish -- it is due to its construction and design, and I will grant you it is unique and different and interesting, but not all that special. You could reproduce it if you wanted to. Structure has major problems and remediation would be exceptionally expensive, as you heard, \$476,000, and that number was based upon the list of recommendations from terry o'connell's architectural firm that she sent in a letter to me and I gave to the restoration contractor. So that amount of money to put into the house to bring it up to standards, to remediate it would really preclude any expectation to recoup rent on that house in any reasonable time. It's been suggested we seek commercial zoning for this house in order to have higher rent, but that is totally against what these families came together a half century ago to do. That is the protect the character of this neighborhood as residential. Despite our offers to give anyone who will take the house away, no one has offered to take the house away and reassemble it somewhere else and restore it. Instead, these people have placed the interests of a single house above those of the neighborhood, and have sought imposition of historic zoning to force my mother to pay for their benefit. My mother's intention at this point remains unchanged. We want to preserve the residential nature of the neighborhood. She does not wish to sell the property at this time or at any time in the future. And her long-term intention after 50 years of putting both real and sweat equity into the

property, is to remain

-- maintain this property for residential use. After exploring multiple options and getting a number of professional opinions from property managers, from contractors, every person I said, talk me out of this, and they all would shake their head and say no. We've come to accept that the only reasonable path forward is to remove the present structure and continue to assure that the property remains zoned residential into the future. This is a view and accord with the hancock neighborhood association, to preserve the single family residential nature along red river. And I ask that you not impose this unjust and unfair burden upon my mother, and dismiss her half century of stewardship of preserving the residential character of this neighborhood. Thank you for your attention and I'll be glad to answer any questions.

[18:49:36]

>> Mayor Leffingwell: Thank you. Matt williams. Is anna myers here?

>> I'm matt williams. [Indiscernible].

>> Mayor Leffingwell: Okay. Jim bennett? How about rodney bennett? All right. So you have six minutes.

>> Thank you, mayor. Mayor and council, I'm here, I've been involved with this process since the initiation of the demolition permit on the property. As a part of that, as you've heard, we did go and seek a structural analysis from an engineer, professional civil engineering company, located on research boulevard here in austin. The report comes back without telling you every word in the report, it comes back and says that there are problems with this structure. There are issues that need to be addressed. And that he recommended that the structure be torn down. We presented that at the historic commission, and in discussion, the historic commission said, would you mind if we got a pro bono engineer to go out and look at it to make his assessment, one that might be more experienced in restoration? We invited him out. We had no

-- no problem with that. It is a structure that needs repairing. And I won't go into the full nature of that analysis, but, basically, comes back, the structure has issues that need to be fixed and can be fixed if you spend enough money on it. So as a result of that, we had david davisson, who is with realty restoration here in town, go out and give us a general estimation on what he thought to fix these things reported in these reports. That came back as \$476,685. I think you've heard testimony before tonight, earlier, that without having a pen and calculator on it, that it does appear that maybe \$400 is somewhere in the neighborhood. So we think that that 476,000-dollar figure, more or less, is an appropriate, somewhere in the ballpark, if you were going to fix it. There's the issue. My clients have owned the property. They're not interested in fixing it. They're not interested in selling it. They want to keep the property as residential property, as was the corporation that was founded or created to do back in the early '60s, I believe it was. Council, what you're telling my client now, if you zone this historic, come up with \$476,000 more or less, to fix this structure, try to recoup your investment out of that through monthly rents. My client does not want to live in that house. Or sell the property. For 50 years they haven't wanted to sell the property. They don't want to sell the property now. I don't believe we have a problem in creating a restrictive covenant that keeps the property as its residential zoning. This is not a zoning change to change the use of the property. This is a change

-- a request to keep the structure or not. As indicated, we did talk to the hancock neighborhood folks.



Their position, more or less, was, we're concerned about the zoning on the corner. We are -- that was their concern. Counselor, I'm not in the historic business as some of the speakers that have come to you this evening, or this morning, but if the time to seek historic zoning is at the time a demolition permit is filed, then that's the cart and the horse. If you think so much of some of the structures in town, an effort should be made to go forth before someone presents the demolition request, approach the owners, and say, we like this structure, we're, you know, concerned and we'd like to make it historical. At can eliminate a lot of the stuff perhaps that we're dealing with in this process we're dealing with I'd be available should you have any questions, and I think my time has about expired.

[18:54:25]

>> Mayor Leffingwell: Okay. Next speaker is matt williams. Is anna

--

>> anna is not here.

>> Mayor Leffingwell: Not here? You have three minutes.

>> Three minutes. I need to speak fast. Good evening, mayor, mayor pro tem and city

-- city council members. I'm matt williams and I'm the lawyer for the owner, the 95-year-old owner. My client asked the city council to adopt the recommendation of the planning commission and deny the forceful imposition of historical zoning on her and this property, which is essentially a request that you serve my client up, my elderly client with a 500,000-dollar bill. That's effectively what's before you tonight, is to forcibly impose a 500,000-dollar bill on my

-- on my elderly client. I think it is

-- before I get into the rebuttal on the issues on the fifth amendment, I think it's telling that when council member spelman asks, how much do you think it's going to cost? How much

-- trying to help out the architect who spearheaded this campaign against my client, how much do you think you can get this done for, trying to help her out, and she actually admitted, quote: I have not given it much thought. They haven't given it much thought. They do not care. This is really the key of our side of the story. This is not about modern german international architecture, from our perspective. This is about the fact that these people are so caught up in the architecture and the lines and the designs that they are trying to just to have you serve my client with a \$500,000 bill and admit to you that they haven't put much thought into how much it would cost or where that money might come from, and the truth is that they do not care. So I'm going to get into some of the details. So architectural property, that's one of the bases. We're not addressing that. But we are addressing community value. The community value, they will ask you to consider community value and not addressing any way the value -- the cost of this project to my client. The planning commission, in recommending against the imposition of historical designation, noted that the action of the city government would likely be a taking under the fifth amendment. In response to that, in a preservation austin letter dated september 16th, they essentially tried to rely on the penn state case, the penn station

-- I'm sorry, penn central transportation company in 1978, u.S. Supreme court, and they tried to tell you, don't worry, you can't

-- you cannot be sued. This can never be a fifth amendment case because this case essentially says that

it can never be a taking if it's done in the context of historical zoning. That is not the proposition that case stands for. I sent e-mails to you back on september 26th addressing that specifically. What that case stands for is the fact that there will be a factor test. And the factor test, you have to -- the economic on my client.

[18:57:46]

>> Tell me about the factor test.

>> Thank you, sir. If you were to serve my client up with a \$500,000 bill and we had to do the fifth amendment takings case, this is a factor test. The economic impact on my client will be considered. This is from the 1978 case that they cite. The extent to which this interferes with investment backed expectation of my client, and the character of the government action, overall, the fifth amendment taking analysis requires an analysis of the severity of the impact on the property owner, which is pretty severe. So in all, what I would say is that the impact here is severe, that the outcome would be unjust, it would be a violation of the fifth amendment, and we would ask that you agree and concur with the recommendation that the planning commission and deny the forcible imposition of historic zoning on my client. Thank you.

>> Mayor Leffingwell: Thank you. Council, that's all the speakers that we have. Motion? Discussion? If there's no motion, the historic zoning will be denied. Council member spelman.

>> Then there needs to be a motion. Is this a motion which we pass on three readings, or is there only one reading?

>> Mayor Leffingwell: This is an ordinance. You can pass

--

>> therefore, three readings.

>> Mayor Leffingwell: It takes three readings to pass it.

>> I am

-- before the lawyer for the owner of the house started talking about the factor test, which I'm not familiar with and would like to know a little bit more about, I was concerned, as I think we all were, about the costs that we would be putting upon the owner of this house if we zoned it historic. And if, in fact, it's 470-ed on-thousand dollars for a house which is valued currently at about \$440,000, that seems like a very steep number. And I'm concerned that some lawyer my find that to be a taking and might hold up in court. On the other hand, I'm more concerned about the cost to the community of removing a house which is a landmark that anybody every met who has driven past it, to be a landmark, since the very first day I was in austin, texas, on august 20th, 1988, when I drove past it, and said who the hell built that, that is one cool house, and ex claimed that to the person who was driving the car. And he said, oh, yeah, he started talking about, that's the boat house. I don't believe he talked to ms. Guerrero, but he called it the boat house, as I think maybe dozens or maybe hundreds of people already have. I would like to know more about what it would cost to rehabilitate this house, and I suspect that it would cost less

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[19:00:56]

>> Mayor Leffingwell: We're only ready for first reading.

>> I understand. I want to say one more thing, mayor, I'm directing staff. I think terry o'connell has done a lot of work for the state, maybe a little too much for the state, maybe getting somebody who does more value engineering that requires one to do, might get a lower estimate. So, steve, is there some way we could get somebody else to put a pencil to the

-- what we know is wrong with this house to come up with

-- to the nearest hundred thousand, what kind of costs we're incurring? [One moment please for change in captioners] Sure. (Spelman) I move Mayor approval of historic zoning on first reading only and to close the public hearing. (Mayor) Close the public hearing and approve on first reading only. Motion by Council member Spelman. Is there a second? Second my Mayor Pro Tem. Discussion? Those in favor say aye. (All) Aye. (Mayor) Oppose say no. Passes on a vote of 6 to 1, with Council member Martinez voting no.

and thank you. Thank you. No further business before this body tonight, without objection, we stand adjourned at 1:01 a.m. (END)