

City Council Regular Meeting Transcript – 05/14/2015

Title: ATXN 24/7 Recording

Channel: 6 - ATXN

Recorded On: 5/14/2015 6:00:00 AM

Original Air Date: 5/14/2015

Transcript Generated by SnapStream

=====

[10:17:45 AM]

>> Mayor Adler: We're going to go ahead and start. I'm Austin mayor, Steve Adler. We're going to begin today with an invocation from sheikh mohamed-umer Ismail of the islamic center of greater Austin.

Thank you, sir. Please rise.

>> I began in the name of Allah the most merciful, the most beneev sit. Oh, god, the one who gave life to Adam and eve, oh, almighty, the rescuer of Noah and protector of Abraham. Oh, god, the one who spoke directly to Moses and gave him the torah. The most compassionate who blew into the virgin Mary. Oh, the one that loves us the most and is the most beloved. Who sent Mohammad as the herald of mercy as the human race. May your peace and blessing be upon all the messengers of god, whether be known or anonymous. All praises for you that befit your majesty and glory. We seek your Devine guidance in deciding matters for this city and the people of this city. Decisions that will lead to the vindication of love over hatred. Promotion of well-being over malady. Expansion of prosperity over poverty. And the cultivation of strength over weakness. We ask that you envelope this chamber and city with tranquillity, calmness, and sincerity of purpose. We ask that you free our hearts from prejudice, greed, and malice. We ask that you protect our families from deterioration generation after generation.

[10:19:50 AM]

May you inspire us and our children to be peaceful, law-abiding citizens. Men and women of truth, and guardians of the most sacred gift of life. We ask you, who has set the balance, to lead us to the middle way, a way that does not turn away the wealthy, or abandon the poor. A middle way that does stifle growth or harm creatures that glorify you by day and by night. We seek your help in being better hosts and better guests in a land that is yours, one nation, under-god, indivisible, with justice for all. All praises to you the most high, subtle, aware, hidden in manifest, amen.

>> Mayor Adler: Sheikh mohamed-umer Ismail. Thank you. A quorum is present. I will call to order this meeting of Austin city council. Today is may 14. We're meeting in council chambers at Austin city hall 301 west second street. The time is 10:20 A.M. Before we begin, I'm going to read some changes and corrections into the record. The point of personal privilege has been canceled this morning. We have two items that have been requested to be set for a time certain. The first is item number 6, with a time certain request of 1:00 P.M. We have eight people who have come here wishing to speak. I don't know if you want to postpone this to 1:00 P.M.

[10:21:51 AM]

Certain and have those folks come back, or if you want to let those eight people speak now, if they want to, and then postpone the item to 1:00 P.M. And then pick that item back up again. But I want to let you know that there are eight people here. I'm sorry.

>> Garza: They might not be here, mayor. Can't they sign up?

>> Mayor Adler: We have eight people for item 6. Gus Pena is here. Is Gus Pena here? Is John whitehead or Lisa whitehead? Jackie pedastante.

>> Garza: They were all told 1:00.

>> Mayor Adler: Is there any objection to setting 1:00 P.M. Item 6? That is done. Item 13, it is set at 2:00 P.M. Time certain. But at that point, item 30, there will be a request that it be postponed. My sense of the council is that will be granted at that time. Number 30. I'm letting people know so they don't have to stay here. With respect to items that are pulled off of the consent agenda. Item 2 has nine speakers. Item 6, we have put off. Items number 11 and 12 have 12 speakers.

[10:23:58 AM]

So we have those two items, item, 2, 11, and 12. Is there anything else that's being pulled off of the consent agenda?

>> Mayor, item 7 and 8.

>> Mayor Adler: Item 7 and 8.

>> Zimmerman: Mr. Mayor, point of inquiry. I thought the consent was limited to items 1 through 4. It was only four items.

>> Mayor Adler: That's right. That's right. Items 1 through 4. So the only item pulled on that, then, would be item 2. Thank you, Mr. Zimmerman. We are revised backup on three. Revised draft ordinance 9. Revised draft ordinance 11. 12 and 14, we have a memo from pzd. And item 30, we have a postponement memo. We have one speaker wishing to speak, and I'm going to recognize her to speak on the consent agenda. That would be Sharon blithe. Is Ms. Blithe here? Would you like to speak on the consent agenda? It would be items 1 through 4.

>> I'm Sharon blithe. I'm here representing myself. I would like to first say that I'm a little concerned that y'all don't have high back chairs like Ms. Council member Houston has.

[10:26:08 AM]

If you want a high back chair, that is great. You have to sit here a long time and never move. Just a matter of preference, I guess. On the -- I'm speaking on item 3. I think it's incumbent on the council to look at people that have not served on boards and commissions. I think there is being a precedent set here where you kind of recycle the old boards and commissioners -- commission members. And not have a fresh perspective on the boards and commissions. So I would like for y'all to consider that, that there is only one -- those people are only one of 11, on like the parks and recreation board. They don't really have much influence unless they get cooperation from others. I think you are putting too much attention on the objecting or abstaining from these boards and commissions. I want to see you consider that. I see most of y'all are not listening, I just wanted to say that. Thank you very much.

>> Mayor Adler: Thank you.

>> Houston: Mayor.

>> Mayor Adler: Ms. Houston.

>> Houston: I would like my friends and colleagues to know this is a hand me down chair from mayor pro tem pole.

>> Pool: I noticed on the screen where we had the item Numbers pulling. It was not on the screen. It

made it difficult for the audience and frankly some of us on the dais to follow along. I would like to ask that, that be included again, if that's possible.

[10:28:10 AM]

>> Zimmerman: I would like to second that. It is useful to have the agenda item Numbers up there all the time.

>> Mayor Adler: Does that make sense to you?

>> Yes, sir.

>> Mayor Adler: Ok. With respect to the consent items, item number 3, there is, in the backup board and commission nominations and waivers. They have been listed. One of those has been pulled. Michael cassias. For the parks and recreation board has been pulled and is not part of the board and commission nomination and waiver set for today. Is there a motion to approve items 1 through 4 on consent.

>> Zimmerman: Mr. Mayor, I move approval of the consent agenda. I would like to be recognized as voting against item 4.

>> Mayor Adler: Ok.

>> Zimmerman: With that note, approval of the consent agenda.

>> Mayor Adler: Is there a second? Ms. Tovo. Any further discussion on the consent agenda? All in favor of the consent agenda raise your hand. Those opposed. It is unanimous, with the one notation made by Mr. Zimmerman with respect to item number 4. That gets us then to item number. That gets us to number five.

>> Zimmerman: I would like to move to divide the appointment question. We have two people. I would like to divide the question and vote second on Mr. Murphy.

>> Mayor Adler: Ok. Ms. Tovo, I think this is a referral from your committee.

[10:30:11 AM]

Do you want to make a motion as to the first nominee?

>> Tovo: Certainly. I would like to move approval of our first nominee, please.

>> Second.

>> Mayor Adler: What's the name of the first individual --

>> What's the name of the first individual.

>> Mayor Adler: Lottie Daley.

>> Tovo: I will say by way of context. Our committee met and interviewed seven candidates in a personnel executive session, and we did come back out and nominate the two commissioners that are before you today.

>> Mayor Adler: Ok. Is there a second? Mr. Renteria. Is there a second? Those in favor raise your hand. Unanimously approved. Your second motion Ms. Tovo.

>> Tovo: I would like to move approval of our nominee.

>> Mayor Adler: Second, Mr. Tenteria.

>> Zimmerman: Mr. Mayor, I would like to be recognized smeeg -- speaking against.

>> Tovo: I would be happy for you to speak against and then follow-up.

>> Mayor Adler: Makes sense.

>> Zimmerman: We did some checking and posted on the council message board as soon as we could. It was 8:46 this morning. I apologize for the posting there. But we, you know, we have been busy as everybody has. We got to this as soon as we could. I think in light of what happened to captain Antonio Buller that there were objections raised that Mr. Buller could not be objective in his role on the public safety committee, being an outspoken critic of some of the practices of the police department.

[10:32:21 AM]

I believe by the same token, that Mr. Murphy, as an attorney, who according to our records, was paid \$36,000 to represent union workers, it would be impossible for him to be objective on this civil service commission. Being -- to me, it is the same as a defense attorney. It is not reasonable for a defense attorney to be asked to be objective and see things through the prosecutor's eyes. It's the just of that person to be biased, really, in favor of one point of view. So for that reason, I ask my colleagues to not approve a union lawyer on a commission that is supposed to supervise and oversee labor and management disputes. So I think he should be disqualified and not be approved.

>> Mayor Adler: Further discussion? Mr. Casar?

>> He's being on the labor side as an electrical worker. I don't see any conflict of interest on ruling of cases that have to do with municipal employees. He certainly has values and I can speak to the values of not wanting working people to be treated unfairly but I think he can judge on whether people are treated fairly or not. I don't see a conflict of interest in the matter and personally have known him for several years and can personally testify to just to his powerful character. So I hope my colleagues will all vote for his appointment.

>> Mayor?

>> Mayor Adler: Ms. Pool.

>> Pool: I'm a member of the audit and finance committee and was in the room when we did the interviews for all of the candidates.

[10:34:28 AM]

And Mr. Murphy rose to the very top in our estimation. Two of the criteria for sitting on the municipal civil service commission, a new commission in the city of Austin's lineup of commissions is expertise, experience, or knowledge in human resources, management, and law. And experience with our city code and in matters relating to civil service. And Mr. Murphy clearly was head and shoulders above the rest in not only his background, experience, and integrity, but in the good and solid responses that he gave to us. And as a group, the audit and finance committee agreed that his nomination should go forward, and recommended his approval. I, as a union member myself, strongly support having a strong union voice in matters that affect our city employees, many of whom are also union members, and for whom the civil service commission and rules are meant to support and assist.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I have less to add. I concur with council member pool and Casar. I wouldn't anticipate conflicts to arise because the work he's done, as council member Casar said has been in private industry and not in the city. I do expect that his legal training and his work in the construction industry and labor union representative will serve him well and will serve our municipal civil service commission very well in making sure those issues are handled fairly and with an eye to all involved. Not just employees but also management perspective.

[10:36:30 AM]

I'm confident and comfortable with recommending him.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: Just wanted to add a little bit more context to the discussions we had as part of the audit and finance committee. I have full respect for Mr. Murphy, and I do agree that based on the qualifications that were put before us, he certainly does have the background to fully understand and

administer the municipal civil service code. I did point out during our discussions that we do have someone -- a commissioner already serving on the board who has work history with asme who probably is also similar in her perspective with labor relations issues. While we have two people leaving, one of the people has a background in human resources and one has a background in mediation. I did expression concerns that we have a broad range of perspectives represented on the commission. For example, I think a business owner would be a good addition and so I guess my suggestion -- like I said, with the criteria that was laid before us, I -- I -- I understand why Mr. Murphy has risen to the top, but maybe in the future, just to ensure that we do maintain a broad perspective on the commission, we can look at having more specific requirements for the different positions. I know on some of the other boards and commissions, you know, we specifically say we need an engineer or a landscape architect based on the specific charge that that commission is -- has before them. So I just think that that may be something to look at in the future just to make sure that we do maintain a balanced perspective.

[10:38:34 AM]

>> Mayor Adler: Do you know when the next time is that a term expires and there will be an additional nomination coming to us?

>> Tovo: Mayor, next year. This is the -- the two people who stepped away were the first two people -- you know, it is a new commission, and --

>> Pool: They're two-year terms. So the two who retired are now being replaced and we'll have another with the staggered terms, next year.

>> Mayor Adler: Ok.

>> Pool: We did carefully balance the qualifications and backgrounds of the existing members continuing on and felt the addition of Ms. Daley and Mr. Murphy would be an overall positive effect.

>> Mayor Adler: You believe the balance exists for this board.

>> Zimmerman: Mr. Mayor, point of inquiry. Can I be advised as to how many members are affiliated or paid by the union and how many are likely to be nonunion supportive, on the committee as it stands now? Where is that balance? What is that expected balance? Because I would venture a guess that not all the members are paid by the union. If I could know how many members are not union members or not paid currently?

>> Tovo: Mayor, I will provide some general background. I think it is also useful information to know that it's -- we did also talk with our staff, who support the municipal civil service about the decisions and got some useful information about that. I'm not sure whether they're here today and are prepared to speak to that. I will say our remaining members on the municipal civil service commission, outside of the two who we've been considering today, Lynn rubenet has served for the past 20 years as an independent hearing examiner, ash bitter and mediator.

[10:40:41 AM]

And she was appointed by -- you know, let me just stop us here. We did talk about our candidates in a personnel executive session. So this is the first -- let me just say this is the first time that we're discussing them in open session. I want to make my colleagues aware of that. I believe we have a right under the law to discuss candidates for the municipal civil service in executive session, if that is the will of the group. Pamela Lancaster is remaining as well. A former city of Austin municipal court judge. Spent 32 years as a prosecutor, judge, attorney in Austin. Terres Perez wisely vice chair formerly middle management with the American federation of state county and municipal employees. And has spent the last 13 years as an international union representative responsible for understanding civil service rules, personnel policies and negotiating contracts. She does have experience with asme. Pamela Lancaster, I

believe does not. Lynn rubenet whose bioa read partly. Did begin her career in 1995 in labor before being appointed by Ann Richards to the Texas commission of human rights. Where she performed similar duties. She's performed for the past 20 years on the ash -- arbiter and mediator. These are the bios provided by the human resource staff members. I would be happy to make a copy of them and make them available to you. We also have applications on file for the three existing and the two nominees today.

>> Zimmerman: Thank you, mayor pro tem. I did just learn something here.

[10:42:42 AM]

I wasn't aware that we had any executive sessions on other commission members. So can I understand why there was an executive meeting on this commission and not others.

>> Mark Washington, human resources director. It was a personnel matter and interviews were being conducted. That gave us the opportunity to conduct the interviews in a closed session as it was treated as a personnel matter. There were multiple candidates that applies. The applications were available to the public, but the actual interviewing of the candidates was conducted in closed session.

>> Zimmerman: Ok. That is interesting. That gives me concern. We're not doing closed sessions when we are interviewing other commission members. Can you -- these are volunteer positions, they're not paid by the city?

>> That's correct. They have the ability, unlike other commissioners, they have the ability to receive compensation, based on the charter language.

>> Zimmerman: Can you explain that a little more? I wasn't aware -- so in other words, if we approved Mr. Murphy, in addition to the money he's paid by the union he could be paid money in his role on the commission?

>> The charter language allows the council to determine compensation for the commissioners. At this point, there is no pay. But the commission has previously requested that. But I just say that in response to your earlier point about them not being paid as city employees. But I think our city attorney is here and Lee Crawford, I did see him earlier, may be able to discuss the issue in closed session if you like.

>> Zimmerman: I appreciate it very much. If you could think about it, Mr. Washington, the other question that came up on this, we have charged our city manager, right, with the responsibility of our employees.

[10:44:43 AM]

So I'm concerned, you know, he could -- he has a tough job. In a management chain of command. Somewhere people have to be accountable and responsible. So if the city manager and his staff loses the ability to supervise employees and terminate employees, and if they're overridden or undermined by a union board that puts members right back on after they're terminated, it could undermine his ability to manage. If you could think about that and maybe respond.

>> I will let Ms. Crawford respond first to the personnel session and then will come back to that comment.

>> Good morning mayor, council, Lee Crawford, city law department. Mr. Zimmerman, I understand your question to be about a close said session for the interview of candidates for a municipal civil service session. That is an appropriate vehicle. The council has the appointing authority for members of the civil service commission as established by the charter. And in order to select those members, the audit and finance committee, under the city code has the prerogative to review applications and make recommendations to the full council for those appointments. That's kind of where we are today. And in the course of evaluating the applications and making its recommendation to the full council, the audit

and finance committee does have the prerogative to go into a closed session for purposes of discussing qualifications and background with individual members. That could be done in public, it could be done in a closed session as well. That's an appropriate vehicle under the open meetings act for the council audit and finance committee to take.

>> Zimmerman: Thank you. But the particular question. Is there anything peculiar about the civil service commission?

[10:46:49 AM]

Can there be closed meetings about any commissions? Is there any peculiar?

>> I would not call it peculiar, exactly. One feature that you don't see on a lot of the other boards and commissions is the commission itself is provided for and created specifically under the city charter as opposed to the council's advisory commissions that are created by the council through your city code that you pass.

>> Zimmerman: That is a distinction. That is the distinction I was looking for. And maybe also because of that, are there other legal ramifications? If certain commissioners take certain actions do they have additional potential legal liability in regards to legal disputes that other commissioners don't have?

>> One feature, again, of the municipal civil service commission is what we call a cov ren commission. It exercises the cov ren -- sovereign decision of the city as the decision-makers before it in the appeal of the hearings.

>> Zimmerman: That used to reside with the city manager and now it resides with the commission?

>> That was one of the reasons for the creation of the civil service commission through the 2012 charter.

>> Pool: Mayor?

>> Mayor Adler: Ms. Pool.

>> Pool: I have a question. I have worked in municipal government and private sector and nonprofit. My experience has been when personnel matters arise and you talk about a person's qualifications and interview for positions, these matters are generally done in closed session, executive session, and I think I had a conversation about that previous with a council member about why those kinds of conversations are generally held outside of the public for matters -- so people can be forthright, and also be able to explore areas that they might not otherwise want to delve into in public.

[10:49:02 AM]

Is that -- is that how you have seen it yourself in the past, mayor?

>> Mayor Adler:

[Indiscernible] Personnel matters, we handle those in executive session. It is obviously an opportunity for members of the dais, in this kind of instance to be able to raise those kinds of questions. Which is the prerogative of the people on the dais. You are correct about the custom to handle those.

>> Pool: Can I call the question?

>> Mayor Adler: Since you debated it would be unfair for you to call it after having the chance to talk. Ms. Troxclair.

>> Troxclair: I think the statement was made earlier that there are two-year terms, it says in the resolution they're three-year terms. I wanted to clarify and say they're three-year terms, to make sure we're all on the same page.

>> I think initially, it is one year, two year and three year terms staggered. The expiration of staggered terms everyone will have three-year appointments.

>> Troxclair: The appointments today are three-year appointments?

>> That's correct.

>> Troxclair: When will the next vacancy or appointment come up?

>> May of 2016.

>> Troxclair: Ok. I also wanted to ask, can you help me understand the background of how the qualifications that we used in making -- in the interviews and making the decisions were arrived at? And if you think it would be helpful to have either a business owner or someone with a history of -- in hr, like Mr. Russell who is stepping off the board continue to be represented?

[10:51:07 AM]

>> Yeah. So that preference -- it is not an absolute criteria to qualify for the board. It was above and beyond what was initially in the charter. But the preference was to have someone that was experienced with personnel matters, either from labor perspective, the management perspective or the law. Looking at it from matters of the law. That was done in conjunction with -- I think the audit and finance committee from the previous council, the criteria that was used in this process just replicated the preferences from the initial appointment.

>> Troxclair: Ok. So would it -- you said that there were qualifications for experience either from the labor perspective or from the management perspective. But it does seem like we now are going to have two representatives with hospital from the labor perspective and no -- with history from the labor perspective and no one with the management perspective experience. And maybe that is not a question for you to ask. I guess my question is if we wanted to support the idea of having a broad -- broad range of perspectives represented, would it be possible to either add a member of the commission, one or two members with specific criteria laid out or would that be possible?

>> You mean in addition to the five?

>> Troxclair: Uh-huh.

>> Since it is specified by charter, I don't believe the council has the authority to amend the composition of the commission.

>> Troxclair: Ok. So if we wanted to in the future layout more specific criteria for the existing five members is that possible?

>> Oh, absolutely in terms of preferences for vetting the candidates, that can be the prerogative of the audit finance committee moving forward.

[10:53:09 AM]

Or this council currently in considering the candidates today, I believe they provided all 20 -- council member tovo mentioned all the other candidates that had applied as well.

>> Troxclair: Thank you.

>> Mayor Adler: Is the next appointment in may or next spring -- June or next spring?

>> The terms expire may. I'm not sure about the exact date. We're past the appointment date. We're in a holdover -- excuse me. I'm -- so the terms expire in may. If you can help me with the specific date. May 9th. So we are past the appointment date.

>> Mayor Adler: Those are these two. I asked the question earlier, when is the next time we will be filling a spot.

>> May 9 of 2016, as I understand it.

>> Mayor Adler: Ok.

>> Troxclair: Mayor?

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: Who will be expiring.

>> Teresa and Lynn.

>> Troxclair: Do you know if these two commissioners, have they stated an interest in continuing to serve yet?

>> I am not absolutely certain of their interest. I know one has expressed some, but we have not formally asked them to specify their interest.

>> Troxclair: Ok. Thank you.

>> Mayor Adler: Further discussion on this nomination of Michael Murphy? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. Last observation here. I think from the things I've heard and what I read, if we approve of Mr. Murphy, we will have three, solidly prounion representatives, Ms. Perez wisely, 13 years as a union representative.

[10:55:18 AM]

I'm reading from our information. And Lynn rubenet legal career started representing unions. And Mr. Murphy, paid by the union, reporting labor. So what we are doing is voting on a nonobjective board that is clearly biased in favor of the union position as opposed to, say, a management position. I don't see the balance here that my colleagues have called out. It is not here in the facts. So I'm going to be voting against this appointment, because this shifts the balance clearly in favor of the union representation.

>> Mayor Adler: Further discussion? Mr. Casar?

>> Casar: Mr. Mayor, I don't think that in my view, people, regardless of what their implicit values will be will not vote in one particular way or another. I trust that both appointees will trust their best judgment and vote in employee positions management positions based on objective criteria. One could say that this city council is biased towards you know, trying to preserve the environment and trying to bring affordability to the city. The voters have chosen those sorts of values through or election. And in the same way, it seems to me that we are absolutely in these cases trying to pick people that have some experience representing workers, individual workers when oftentimes, you know, individuals have difficulty having representation. That is the reason that workers you know, throughout history has organized to associations and unions. That doesn't mean folks that have worked for a union presently or in the past are not able to make their best judgment to make honest decisions for themselves.

[10:57:20 AM]

So that is why I will be supporting both of these appointees and have no -- you know, no trouble in my heart that we are assigning people that will not be able to objectively take on the individual matters presented to them.

>> Mayor Adler: Further discussion on this nomination? Hearing none. Let's vote. All in favor of the nomination of Michael Murphy, please raise your hand. Those opposed. Those opposed. Those abstaining. It is all in favor with Zimmerman voting no and Houston and troxclair abstaining. The nomination is approved. I will go to the nomination that I skipped planning and zoning number two. This is set for second and third reading approval. Is that correct?

>> That's correct, mayor and council. Greg gurnzy planning department. This was on last meeting for example, first reading. We did have an approach of Mr. Cavanaugh. We talked to transportation staff and they outlined that they thought yaupon would be the better access point for this property. Mr. Cavanaugh did approach the neighborhood and offered some suggestions that he might be willing to do some renegotiation to enlarge the area of the easement in exchange for some greater increase in the amount of transfer in impervious cover credits. He, in my conversation with him on Monday, he had also indicated that he might be willing to remove also the kennel in exchange for some compensation -- some consideration, and possibly some additional impervious cover credits.

[10:59:36 AM]

If you elect not to do what you approved on first reading, staff would strongly suggest that the item be postponed. If you give some direction other than what happened on first reading, we would probably need to converse with Mr. Cavanaugh, perhaps the neighborhood, definitely our law department, given the technical nature of the way the easements

>> Chuck Lesniak is here. You had nine speakers. I know Mr. Cavanaugh is present as well. So if you have any questions I'll be happy to address them as well or we can pause and --

>> Casar: I have a quick process question and this is not to squelch any voices of speakers who have come forward but the ordinance that we passed with committees, this was heard in committee and we have nine speakers signed up. So this may be one of the -- unless we made an exception for planning and zoning zoning situations, this may be one of the cases where we have not adjusted to the new system where there would be less sign-ups when we have already heard from -- of course we already chose to waive that rule for this requirement.

>> (Indiscernible) Our rule is speakers have two minutes on this issue, since there was a public -- since there was a public hearing held in committee. I know -- I'm confused, do we want to hear the speakers? Do we know -- Ms. Tovo, did you have an amendment or recommendation you were making on this from what had been earlier proposed?

>> Tovo: Yes, I remain uncomfortable with the ten-year site plan extension or the extension up to ten years, though I understand there's one year remaining on this year's. So I was just looking through my materials to try to figure out exactly the current site plan expires.

[11:01:40 AM]

It expires next year, is that right, in 2016, Mr. Guernsey?

>> I had further discussion, and they did an extension, so that's a year and a month at most. So the site plan is alive. As mentioned in the work session, even if the site plan were to expire, they have protection under state law that they could resubmit a new site plan and then preserve the use as a kennel and convenience storage. But that would --

>> Tovo: But I guess -- we're not in the practice of having ten-year site plans, and so that's one of the points of this agreement that makes me uncomfortable. And so I'm trying to get really clear on when the current site plan expires in 2016 can you point me to the language in the agreement in front of us that talks about the extensions that will be available to the developer?

>> There would not be an extension that would be in the agreement for beyond the ten years. It's on page 5. It states the site plan expiration provisions the only apply as on 238 D, the original site plan. The original site plan would expire on June 26 of 2023, ten years after the date of its approval. So this would create an expiration date that could not be extended within this agreement.

>> Tovo: And otherwise when would the expiration date be?

>> It would be -- it's my understanding, June 26 of 2016.

>> Tovo: Okay. And I'm sorry, my draft is different from yours. You said that was on your page 5. It's not on my page 5. But I likely have a different printout.

[11:03:40 AM]

So --

>> Okay.

>> Tovo: So the expiration would be June 26, 2016. This agreement would expire the site plan on June

26, 2023?

>> Correct.

>> Tovo: And has there been any additional language added from city legal to ensure that this developer or any other would not be able to come back and try to renegotiate this deal, if passed and executed?

>> Assistant city attorney mitsy cotton went through that last week. We have not added --

>> Tovo: You have not added anything --

>> -- And changed language since last week.

>> Tovo: Okay. Then I'll handle it in my questioning.

>> Mayor Adler: I'd like to go ahead -- Ms. Troxclair?

>> Troxclair: I just wanted to clarify. I believe that we had -- we said the total of eight speakers that's been heard in committee but we also clarified that it was four for and four against.

>> Mayor Adler: Okay. So what we're going to do now -- my understanding is there's going to be two amendments that may be made to this, one dealing with potentially shortening the time of the site plan and another one that deals -- would deal with providing that there would be no access to yaupon, the only access would be out to spicewood springs road. So with that in mind as we listen to speakers, I'll go ahead now and recognize four speakers for and four speakers against. In this case there's just one against. I'm going to recognize four speakers for, and I think that we have -- I'm going to recognize Roy Cavanaugh, Cynthia Cavanaugh, Sharon Blythe and Charles Roth speak for and Joe trak to speak against.

[11:05:43 AM]

Cynthia Cavanaugh? Is she here?

>> (Indiscernible).

>> Mayor Adler: Okay. You can speak. Mr. Cavanaugh, then you have four minutes.

>> Okay. Did you also have some questions -- good morning, everybody. Mayor pro tem, Ms. Tovo, you also asked some questions about the construction plan. The construction plan is what entitles me to construct the road, and it will be a public access road. Now, I've already paid engineers, I've paid fees to do that. I've already had the preconstruction meeting. I can start building that tomorrow, and that never expires. And so that's probably what I'll do as soon as we resolve all these issues and make sure everybody is satisfied with where we're at. But there's a question here -- would you please put up this overhead? You know, there's an issue about the -- about the access to the -- to yaupon, and you mentioned there's going to be a change in the agreement talking about that.

>> Mayor Adler: Someone is going to propose a change.

>> Okay. Now, you see that Orange arrow on the left, top to bottom, left to right. The transportation department said that it was dangerous to come out on spicewood springs road, because of that curve and the red right there is my access now that I currently have. This red over on the right bottom, that's the access that they want to deny me. They want to prevent that in this -- in this -- in this proposal you're talking about. So I have the -- you see where it says storage kennel. I have the right to build that. I have a site plan. That's the site plan they're talking about. Doesn't expire for a year. And all I have to do is begin work on it and proceed and work on that and, you know, it will self-perpetuate. Okay? Now, what we're doing here in case people don't know is I'm giving up the critical water quality zone in exchange for transfer development credits.

[11:07:45 AM]

You also see I share bull creek. The middle of bull creek is our property line between the city and myself. I have a business here on this left-hand corner I've been operating for several years. All these year on things are people who have moved in behind and around me. Now much, the ones that -- now, the ones

that don't have a check or V that means they're occupied. When they bought those houses there was a salvage yard behind me. The dolor when he bought that property got a discount because that salvage yard was there. You can be assured of that. Now, the ones that have the V on them they're vacant. They're owned by a developer and he's spoken to the decision makers here because he wants to improve the value of his property, okay? And he bought that whole lot at a discount because there was a salvage yard there. So that's where we are. That's the situation analysis. Now, Charlie Roth is the -- is the -- he is the president of the neighborhood association, I think, okay? He contacted me, and I've always tried to be -- to do everything I can to cooperate and make a fair and reasonable proposal to you, the decision makers, something I could live with but not -- I never made anything that was ridiculous. It's fair and practical, the offers that I've made. Okay. So Charlie says, Roy, isn't there some way -- what would it take for you not to build that road? Essentially that's what he asked me. And he said, why don't you just leave completely? That was his proposal, because that's one of the options the city gave me, is leave. Get a bus ticket and leave and we'll pay you for all -- the whole place. Well, I can't do that that easily. I have people that work there, employees, people that are vulnerable, and also my family. They've got good jobs. We make good money. I make good money on this business because I've worked very hard for seven days a week for 30 years and there's very little hyperbole in that statement. That's the way you make a business work and that's the way I've done it. So to just say, pack it up, get on the bus and get out of town is unacceptable to me.

[11:09:47 AM]

Okay? So Charlie asked me, Roy, what can you do? You know, there's got to be something. So I said, okay, Charlie. This is what it would take, okay? I want access there, but I have to have the storefront, I have to have the kennel, it has to have a beautiful storefront. So the only thing I could do is move it to the left and basically supplant the salvage business, move it. Is that four?

>> Mayor Adler: That's four. Thank you, sir. Joe trak?

>> Good morning. I checked the against box because I'm not totally -- we're not totally for the current plan, but we're really not totally against it. I am on the homeowners association board for the association that is right around the current business. We have been talking to Roy for quite a few years. All we're asking is to make it a safe place for people to access yaupon for all of us to be able to get in and out of the neighborhood and not have extra traffic there. There's already been a fatality at that intersection. I know the increased traffic is going to cause more of that. I'm not sure what the traffic department has done to study the traffic there, but we live there. I've been there for 18 years, and I know what's going on there. So all we're asking is think about not accessing the business from yaupon and modifying the entrance on spicewood springs to make it more -- to make it safer for all of us.

[11:11:53 AM]

Now, when Roy talks about -- I don't have the picture -- when he talks about the line of sight for traffic coming from the top of the picture towards yaupon, there's not a lot of traffic that comes to the business from that direction. Most of the traffic comes from the 360 direction. That's what we have to look at. I'm an engineer. I know there are ways to redesign an entrance to make it safe. So if -- if we're going to do this, we support the business. We support Roy, he's worked very hard. However, to put an entrance that would make it unsafe for everybody in that neighborhood I don't think is the right way. The other thing is the kennel. That business sits in a canyon, okay? The land goes up on both sides. Having a kennel there with all these neighbors that live there, I'm not sure it's the right business for us. But the biggest thing is safety. Please think about the safety of the neighborhood. We don't want another fatality. Thank you.

>> Mayor Adler: Was the fatality on yaupon or spicewood springs road?

>> On the intersection of yaupon and spicewood springs.

>> Mayor Adler: Would it be safer to have the entrance on yaupon or spicewood springs road?

>> I don't know. It has to be done right. But if you put it on yaupon, all that traffic is going to back up. Right now all the traffic comes from -- all the way up -- down yaupon from about -- there are about 1600 homes. All that traffic comes down yaupon, hits spicewood springs, and it backs up all the way up the hill. You have a backup of about 50, 60 cars every day. Add traffic that is going into that entrance, and you can just imagine what might happen.

[11:14:01 AM]

>> Mayor Adler: Okay. Thank you.

>> Thank you.

>> Mayor Adler: Ms. Tovo?

>> Tovo: Sir, you mentioned the kennel and some concerns you had about the kennel, and, you know, this is the first we've heard about them in this phase of the discussion of this tract, but I thought I remembered neighbors coming down and expressing concerns about the kennel in the past. Can you help me understand, are your concerns about noise, are your concerns about environmental issues being as close to bull creek as they are? What's the substance of your concerns?

>> Both. We haven't seen any -- the exact plan on what the kennel is going to look like if the animals are going to be inside all the time or outside. Being outside, I don't have to explain what that could do, but as far as noise, I can tell you what it's going to do. Right now the business has a loud speaker. I can hear the noise -- I live about -- all the way up the hill, if anybody knows the neighborhood, and that noise travels. I can hear the loud speaker all the way at my -- in my house. If we have a lot of dogs barking and a lot of animals making noise, I can just imagine what the noise is going to do. Environmentally, I'm not an expert as far as what -- what could happen, but we all know what a kennel -- or at least most of us know what the kennel -- what the land around the kennel is going to be like. So we -- that's our biggest concern.

>> Tovo: Thanks very much. And so we did hear in a previous discussion about this that the animals would be inside. I'm going to ask staff a follow-up question about what mechanisms they have to ensure that that's the case. Most kennels have an outdoor area, so that's -- but I appreciate that. Thank you.

>> Thank you.

>> Tovo: I appreciate the additional information.

>> Mayor Adler: Thank you.

[11:16:05 AM]

Ms. Blithe? And then Charles Roth. . >> My name is Sharon Blythe. I live up spicewood springs road from this site. I disagree that most of the traffic is coming from 360, because my neighbor is the mountain neighborhood up there at o'land pies and spicewood springs road and we take the route down to 360. About half of the traffic is coming from the north rather than 360. I have never observed 360 cars backed up on yaupon. I think it's appropriate to have an entrance on yaupon because it is dangerous to increase the traffic out on spicewood springs road because it's kind of a curvy road. I don't know if any of you all have been out there, it's a very curvy road, limited sight, a lot of bicycles out there going to St. Edward's park. I signed up before because I'm in favor of the salvage yard being removed. I love ace auto glass. I hope it stays there as a business. And -- but I think that the way the zoning is they could build condos and everything else in there, and I would be concerned that if you started building condos along spicewood springs road it would be a ripple effect all up and down that beautiful drive, which is one of

the most pristine areas in the city of Austin, and kind of undisturbed at this point in time. So please consider that, but I would be in favor of removing the auto salvage yard. Thanks.

>> Mayor Adler: Thank you. Charles Roth. Mr. Roth, you also have two minutes.

>> I believe somebody gave me time.

>> Mayor Adler: There's limitations, so everyone -- with only four speakers you get a total of two minutes each.

[11:18:05 AM]

>> Thank you for listening to us today. I'm from the homeowners association as well, and I want to first state that, first, I was severely misquoted so I'm not going to go into those points because I only have two minutes. But I first want to state that we -- I've been dealing with -- I've been on this board for seven or eight years. I've been dealing with Roy on this issue for about five years, and -- and I want to state that we are in favor of this type of agreement and this agreement in particular. So I just want to make sure that that is clear. That's what I hear from our neighbors and that's what the neighborhood association's board perspective has been. In most of the years of discussion with Mr. Cavanaugh, the discussion has been more on not allowing any development, so keep the glass business there and everything else would be undeveloped. It's only until the city was talking about annexing that property that suddenly all this development and the plats got updated or site plans got filed and stuff like that. So this is not the type of thing I think this board would approve to develop in that area. I know it's grandfathered in and we believe that Roy has a right to -- Mr. Cavanaugh has a right to do what he wants. But we have been steadfast over the years that any access from yaupon would be dangerous. There's several aspects that were not discussed here regarding the slope of the hill on yaupon, the backup that can happen on spicewood springs, and this is something that we've always had concern about. We believe it's dangerous on many aspects. There have been -- other, other than the fatality, more than one accident. I think one was a rollover. It's a hill. People go too fast. If it's raining like the last week accidents happen. So we would like it amended so there is no access from yaupon. Thank you.

[11:20:07 AM]

>> Mayor Adler: Ms. Gallo?

>> I have a question. You mentioned that some of the information that perhaps was stated about something that you said was not correct, I'd like to give you the opportunity to tell us what it was, that conversation was.

>> I didn't take notes on everything I said, but certainly the -- get the hell out of here and this type of thing was never part of our conversation. We've always been very respectful, had many meetings with Mr. Cavanaugh. Having him keep his glass business, we said we understand that you're employing people. We said, okay, maybe if we don't develop anything else, that the rest of the development doesn't take place. Everyone agrees it's not compatible with the existing neighborhood. Yeah, the neighborhood grew up around it but that's not something that -- that's not the level of discussions we've been having. They were a lot more cordial, certainly from our side, very respectful, and his desires in trying to balance the main concerns from the neighborhood.

>> Gallo: Thank you.

>> Mayor Adler: Thank you. Those are all the public speakers we have. Is there a motion?

>> I would like to move, from my understanding from staff, if we make any changes to the ordinance, that we approved on first reading at our last meeting, that staff would request that we approve this ordinance on second reading so that they can have the opportunity to make any adjustments to the ordinance and also talk to legal. So I would make a motion that we approve this on second reading, but I

would add to the ordinance that we remove the access to yaupon.

>> Mayor Adler: Okay. Is there a second.

>> Zimmerman: For a point of order, I'm not sure what the motion is. The motion to approve on second reading?

>> Mayor Adler: The motion --

>> Zimmerman: Or is it to amend it in some way.

>> Mayor Adler: The motion being made is to approve on second reading, the impervious cover transfer amendment associated with the 0.2 as it is in the backup materials with the addition of an exclusion to -- or dropping the access to yaupon.

[11:22:11 AM]

That's the motion. Is there a second to the motion?

>> Second.

>> Mayor Adler: Ms. Houston. You have first opportunity to discuss this.

>> I do, thank you, and I do appreciate the conversation that both the owner of the property and his family have had in the neighborhood association. It is a situation where the property has had its current use for decades and decades as a salvage yard and glass shop, a glass business. As someone mentioned, that with the recent annexation into the city, the owner of the property did file a site plan prior to that, which would legally add the uses of a kennel and storage buildings. Also the site plan also added a driveway access to yaupon, which has never been there, so the current -- I just want to make sure everyone understands that the current use of the property and how it's been used has never had access to yaupon, it's always been access to spicewood springs. So it is -- it is an allowed use under the site plan that was filed, but there has been a lot of neighborhood concern about adding a driveway to yaupon, which is a residential street, for a commercial use. And so that is the reason that I would suggest that we remove the driveway access. Transportation did go out and view the site. There is some concerns about spicewood. As any of you who have driven spicewood know, that it's a curvy street. Fortunately because of its topography and the way it is, traffic drives reasonably slow on it. There's also a lot of low-water crossings, as we know with this last rain flood very frequently, we have found out during this process, because my question was what can the city do to improve spicewood that it's actually a county owned road, so we will begin conversations with the county to see what it is that we can do to start alleviating some of these issues that we all know, those of us that drive this road have.

[11:24:22 AM]

One of the things transportation did say is along the right-of-way that is in front of this property, that they can do some clearing to help the visual aspects as people come around that corner and access this driveway entrance that is already there and on spicewood.

>> Mayor Adler: Further discussion on the motion to approve on second reading, with the change being to delete the yaupon entrance. Ms. Tovo? And then Mr. Zimmerman.

>> Tovo: I have an amendment to offer, and also a couple questions to ask, so --

>> Mayor Adler: What would your amendment be?

>> Tovo: My amendment would be to adjust the language on page 5 of the draft dated 5/1/15, section 5a, where it talks about the site plan extension provisions, and there's a line that says the original site plan shall expire on June 26, 2023, ten years after the date of site plan approval. To me that is overly -- overly generous. I understand that Mr. Cavanaugh needs several years to remediate the site. I am going to -- but that's somewhat apart and separate from his interest in constructing -- in adding additional construction to that, in my mind. And so I would set that date instead of June 26, 2023, I would set that

at June 26, 2018. As one of our speakers mentioned, and I'm sorry I've forgotten his name, in the previous discussions about this tract there was concern about the existing use and what we have is a site plan for additional construction on that tract, and it's construction that concerns me. You know, we're -- we're entering into an agreement Ann offering incentives because the tract is in an environmentally sensitive area with close proximity to bull creek, and so --

[11:26:27 AM]

>> Mayor Adler: There's been a motion --

>> Tovo: That's my amendment, for those reasons.

>> Mayor Adler: Motion to amend to strike 2023 and ten years to say 2018?

>> Tovo: Correct.

>> Mayor Adler: And five years. Is there a second to that amendment? Ms. Pool.

>> Tovo: Yeah, mayor, I'm not sure that that's -- the five years insertion would be accurate because the site plan -- I'm not sure, I think we'll need staff just to verify that. But in any case the end date for me would be 2018.

>> Mayor Adler: Okay. 2018. Seconded by Ms. Pool. Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I had a point of inquiry to ask first, I'll ask that quickly, and then I'd like to speak against the motion. So my first question was who owns the piece of land that was in question for the potential roadway off of yaupon? I saw it in a sketch, but it wasn't clear to me who the property owner was for the proposed route there.

>> The area that's between Mr. Cavanaugh's property and yaupon is actually a roadway that would be constructed and dedicated -- it's known as sesquicentennial boulevard. After construction it would be dedicated and would be maintained by the city, if that were to occur --

>> Zimmerman: But is there --

>> But the access, what everybody keeps talking about the driveway to yaupon, that is the only connection between Mr. Cavanaugh's property and yaupon --

>> Mayor Adler: The question is who owns --

>> Zimmerman: Who owns the dirt?

>> And so right now until -- the dedication has been offered to the city, I guess when the roadway is built, then it would be accepted --

>> Zimmerman: But dedication by whom?

>> I think that goes --

>> Zimmerman: By Mr. Cavanaugh?

>> I don't know who it is. I imagine it's the original developer of the subdivision.

>> Zimmerman: Okay, if you don't know that's fine, thank you. Then my -- so we don't know hot owner is.

[11:28:29 AM]

That's fine.

>> Mayor Adler: Wait a second. Wait a second. Before you go on. I'm unclear as to that. Is that property owned by Mr. Cavanaugh?

>> No, it's a roadway that's been offered by -- through a subdivision, I guess to the city of Austin. Upon its construction the city then would accept that roadway for maintenance and take it over. So if Mr. Cavanaugh wanted to take access, then there may have to be, I guess, a second set of construction drawings for the roadway to be given to the city --

>> Mayor Adler: I'm not quite asking yet how -- is it part of the plat? Has it been dedicated?

>> Yes, it's part of the subdivision plat.
>> Mayor Adler: So on the subdivision plat this is an area that's been dedicated to the public subject to the public or the city accepting it?
>> That's correct.
>> Mayor Adler: Okay, that answers the question for me. Thank you. Mr. Zimmerman?
>> Zimmerman: Yes. Thank you, Mr. Mayor. I'd like to speak against the motion to reduce the amount of time.
>> Mayor Adler: Why don't you hold -- that's right, go ahead.
>> Zimmerman: Speak against the motion from the mayor pro tem. I think the time provided here, there could be an argument made with the difficulty we have in the city of getting projects approved, getting them -- getting site plans permitted, getting commercial business deals working, I could make an argument that 2023 is not nearly enough time. I continue to get besieged with horror stories from realtors, property owners, et cetera, the unbelievable calendar time it takes to get basic transactions done and get site plans approved. And so I would not want to diminish the 2023 date by a single day.
>> Mayor Adler: Mr. Guernsey, can you help me understand the impact of extending for five years or extending for ten years? Are there grandfathered rights associated with this property tied to that site plan?
>> The grandfathering rights that Mr. Cavanaugh has under the state law under 43.002 local government code, are separate and apart from the site plan that he has.

[11:30:39 AM]

So the ability to use the property for a future kennel or a future convenience storage, he already possesses that right. The site plan has already been approved by staff, which would allow him to go forward and construct those improvements. But if that site plan were to lapse, and Mr. Cavanaugh would have to resubmit a new site plan and staff would have to approve it again, we would have no choice if he were to submit and show the kennel and the convenience storage again, but he would have to go through another administrative process to establish that right to go construct, and then he would have to get a building permit beyond that.
>> Mayor Adler: Just so that I understand the law, he would -- if this site plan expires on 2018 and he wanted to -- to continue -- wanted to build that, he would be able to file virtually the same site plan and the city staff would be compelled to approve it?
>> That is his right. Under the agreement, there's an agreement right now that Mr. Cavanaugh is wanting to enter into, that he will not submit any further extensions beyond the ten years. If 2018 is offered, I guess staff would have to go back and talk to Mr. Cavanaugh whether he would accept that agreement, because I don't know what his answer would ultimately be. He does have an agreement that he would accept 2023 as the end date and no further extensions, with the amendment to 2018, I don't know what his answer would be.
>> Mayor Adler: And further, I think today -- as things are today, if there was nothing that was done --
>> His site plan could expire.
>> Mayor Adler: And he could resubmit.
>> And he could resubmit for those same uses.
>> Mayor Adler: Okay.
>> And mayor and council, I just -- Mr. Cavanaugh's engineer is with us, and he indicated that the subdivision construction plan for the construction of the street have already been approved and he's done a preconstruction conference, I guess with development service department staff.

[11:32:51 AM]

And Mr. Cavanaugh is willing to go forward and make the roadway improvements himself, so his driveway would then connect to a public street, which he would actually construct to our standards for that portion of sesquicentennial that is not yet built.

>> Mayor Adler: Okay.

>> So let me see if I -- I appreciate your questions because those were going to be mine also. So it sounds like that because of state law, the owner of the property would be able to reapply for expired site plans indefinitely.

>> For the use. He would still have to --

>> Gallo: But indefinitely. That process could occur indefinitely.

>> He has that right under state law.

>> Gallo: So what actually he has done with the ten-year limitation is agreed to take that indefinite process and pull it down to a ten-year limiting term? Is that right?

>> That's correct.

>> Gallo: Is that what I'm understanding? Extend the life of the cycle and he is already in hand out ten years and would agree to extend it not any further for what is offered in this agreement.

>> Mayor Adler: Ms. Toaf snowy.

>> Tovo: Mr. Guernsey, it's my understanding that if he was making progress on his site plan and the date I propose comes about, 2018, would he be allowed to continue?

>> If he has it under construction we could not bar him from continuing is that use of that site plan, that's correct.

>> Tovo: So in effect, as long as he's moving toward his site plan -- moving toward implementation of a site plan by 2018, he's good to continue constructing? Nobody is going to go out there and stop him.

>> No, he would have to pull building permits for those buildings, not just start to do site grading but submit building plans and get the building plans approved.

>> Tovo: But he would be able to continue with his construction. I mean, in effect, as I see it, and you can confirm, what we're doing in allowing him to extend his site plan to 2023 is saying any codes that we adopt between now and then, his site plan doesn't need to conform with them.

[11:35:05 AM]

If we limit it -- if we cut it at 2018, then when he files a new site plan, which he would still have an opportunity and ability under state law to do, he would have to conform with whatever the existing code is in 2018.

>> That may be true, except for those things that would preclude him from actually building the kennel and building the convenience storage use. So if we had some minor changes, I don't know, parking dimensions or something like that, he may have to redesign for those if he had to resubmit a new site plan. But the use itself could continue regardless of whether or not he had a site plan that expired or he had to submit a new one.

>> Tovo: But that -- but that is, in essence, the difference here. I mean, his ability to continue the extension well beyond what other developers have an opportunity to do in the city means that during that period of time any codes that we adopt he would not be subject to. His site plan would be proceeding under older code?

>> Through this agreement he would have that -- that right.

>> Tovo: And so really that's -- that's the crux of why I'm suggesting that that -- that that -- we are allowing him some additional time beyond the aspiration of a site plan, which would be 2016, but not extending it to 2023, which is in the current agreement.

>> Mayor Adler: So that I understand better -- so under chapter 245 or otherwise, he's not

grandfathered at this point to the ordinances that were in place with the initiation of the project?

>> There are certain things in 245 that he could be grandfathered from. This is -- this is actually a contractual agreement between Mr. Cavanaugh and the city if this agreement goes through --

>> Mayor Adler: I'm talking about assuming the agreement doesn't go through.

>> So if we had no agreement then he has certain grandfathered rights under chapter 245, which is the vesting provisions of the local government code, he would be locked under prior landscaping and tree regulations wouldn't necessarily apply to his tract, to those things that basically would relate to what he has on that site plan as a step in the development process, he is entitled to continue.

[11:37:34 AM]

>> Mayor Adler: Under the old ordinances?

>> Under those old ordinances. So if -- it doesn't cover everything, as I mentioned, things like parking spaces. You could argue that he has to comply with the number of parking spaces, but not to the extent that we would do away with his use, lot size, lot dimension, impervious cover. He's entitled to all of those things because of that preexisting permit.

>> Mayor Adler: Most of the significant ordinances that would develop how this property would look and feel, he's grandfathered from already?

>> That's correct.

>> Mayor Adler: So even if we passed new ordinances -- and that's the question I'm going to -- which goes to the council member's question. By limiting the duration of the ordinance to five years, if we did that and it lapsed, when he came back in with his site plan the following year, his new site plan, absent this -- let's say the only thing in the agreement was that his site plan expired on '15 -- or his site plan expires next year if we don't do anything, ordinances that are passed between now and then he would still not be subject to because as a matter of right, even at the expiration of his site plan, he would be able to come in and still be under the old ordinances that were passed because he's grandfathered in those, except whatever that limited number is that goes to -- to health and safety constraints; is that correct?

>> I believe that's true. We have not actually done a -- an assessment. We have not been asked that question about grandfathering, so I'm a little hesitant to be absolutely sure, but based on the information I have it's my belief that he is grandfathered. He is certainly grandfathered under chapter 3.002 provision regarding use.

[11:39:37 AM]

We haven't really gone in and done a thorough, I guess, review of the grandfathering of his property with respect to just the site plan itself.

>> Mayor Adler: Okay. Thank you. Further discussion on the motion to make 2018 the operative year? Gloof could you summarize again the --

>> Could you summarize again the discussion about -- I mean, I guess the concern is that if -- if we're limiting the site plan expiration date, really what effect that has on the total picture of this.

>> Zimmerman: So my understanding is that if we limit the time, that would allow the city to come in and put more restrictive, you know, covenants and rules on development, because that's been the tendency of the city, right, over the decades, is to take more and more and more property rights away, to put more ordinances and more restrictions, you know, on buildings. So every time that one of these periods is shortened, there's more vulnerability to the uselessness of the land.

>> Mayor Adler: To a large degree I would disagree with both what Mr. Zimmerman said as well as what Ms. Pool said. Because for better or worse this property has grandfathered generally to the ordinance

that exist prior to today. And we can't -- and we can't change those ordinances either now or tomorrow or next year or four years or eight years regardless of whether or not his site plan is in effect or whether his site plan expires, because the grandfathered entitlements to the property are not related to the site plan. They exist independent of the site plan. Now, that's not a blanket statement, because there are some ordinances we can pass that he would have to comply with, but generally speaking those are not the ordinances that I think Mr. Zimmerman would find objection only, increasing burdens, or the ordinances generally that serve to protect a lot of the community -- broader community interests that concern development in terms of impervious cover or environmental reasons or a lot of those things.

[11:41:58 AM]

This is a tract that is, because it is grandfathered, operating outside of that system. The reason to have an earlier expiration of a site plan is that, one, it would require a property owner to go back through the process and expend the money again to get back to where they were, and it could be that if someone has to spend that money, \$15,000 or whatever it is to do the planning, that might serve as a deterrent to go back in, and by filing a new site plan put yourself back into the same position that you're in today or not. And if you have to file for a new site plan, or go for building permits, which hasn't happened in this case or building permits in the future. When you go for that you're grandfathered by and large to the ordinances that were in effect well before today, even as concerns those, except for some few more minor ones that would be part of the -- be part of the -- part of the process. You know, for that reason I - - I'm not sure that I see a real material difference between a five-year extension and a ten-year extension, and there is something to be said for being able to take this property out of that -- that grandfathering ability. But as a practical matter, I'm not sure I see personally much of a difference either way because the rights here to this property generally speaking are unrelated to the site plan, whether it's two-year, five-year, ten-year or longer. Ms. Tovo, and then Ms. Pool.

>> Tovo: I think I'd like to ask for city legal to clarify. What I just learned from Mr. Guernsey is there's not been a chapter 245 determination on this tract so we don't know what uses he is, quote unquote, grandfathered, because that's the grandfathering provision.

[11:44:07 AM]

It's my understanding he's allowed under the chapter you cited, 43.002, what we're really talking about are the uses that were present before it was annexed. And so I think we need either now or between now and next week or whenever it comes back on third reading, to have a better assessment of how that would impact the site plan uses, because, you know, as I look at -- do we have Mr. Lloyd here to speak to this issue?

>> Assistant attorney -- 43.002 is part of a section of the local government code that would establish the use, because Mr. Cavanaugh had submitted a plan to construct the use 90 days prior to annexation, so that's what locks in the use. Chapter 245 is, you know, in the grandfathering provision, the vesting provision, also local government code. But that provision then speaks to what types of rights that you may have to how you develop that property. And you're correct, mayor pro tem, we have not done the determination. In fact, Chuck Lewis Ni ac whispered in my ear, I don't know if we have an ser, I don't know what the tract status is. We could certainly look at those issues in light of this and see what those are before we come back,, but I'm very certain that the uses that he has in the plan that was submitted 90 days prior are protected for the kennel and the other use being the convenience storage use.

>> Tovo: I appreciate that clarification. I guess I would say we know we're undergoing a code change with codenext. I don't want to presuppose what codes we might change or adopt in the next couple years, and I just want to point out to my colleagues it's not that we're shortening the length of time he

has, we are lengthening.

[11:46:13 AM]

With this agreement we are substantially lengthening the amount of time he has for his site plan, from 2016 to 2023. I'm simply suggesting we come up with a period in between so we're not abridging his rights with that date, we are extending them. We're just not extending them to 2023.

>> Mayor Adler: I'm going to vote for the amendment to make it to 2018 on second reading because I think I would also benefit by having the conversation about this tract, and its 245 rights, and that might be something that would be best discussed in executive session, rather than in this room. So I'm going to vote for this amendment, recognizing it's on second reading. Any further discussion on the move from 23 to 18? Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I'm going to be voting against. I want to note also for my colleagues this vested rights provision, chapter -- or 245, as it's referred to. There is litigation on these issues sometimes. Less than a year ago there was a Harper park case that I think our mayor was involved in, and the developer was able to -- or had to go to the third court of appeals to get his vested rights honored by the city of Austin. Third court of appeals ruled against the city of Austin and said yes, the developer does have these rights. But the point is, this is very, very expensive for somebody to have to go to court to assert their rights when there's a disagreement. So the city has the latitude to interpret, without quotation marks -- they can interpret your vested rights to be what they are and now it's up to you to spend \$100,000 to go to court to try to enforce your rights. So I'm strongly opposed to shortening this term, and I understood from Mr. Guernsey, I don't know if we're allowed to do this because I thought there was an agreement put in place between Mr. Cavanaugh and the city that specified ten years, and I don't understand -- I'm not certain we have the authority to just arbitrarily shorten that.

[11:48:22 AM]

Can we get an opinion on that? Is that -- do we have the authority to just shorten it right on the dais?

>> Excuse me, Deborah Thomas with the law department. As Mr. Guernsey said at the beginning, whatever the council decides today he will have to go back and talk to Mr. Cavanaugh to make sure that Mr. Cavanaugh agrees, because it is not a unilateral action. It is an agreement with -- between Mr. Cavanaugh and the city.

>> Zimmerman: And so we could -- I remember the Garza case we argued about where we had been in these kind of discussions and lawsuits and back and forth with councils for decades. I'd love to get away from that kind of activity.

>> Mayor Adler: Because it was just approved on second reading I think it gives all the parties a chance to discuss and discuss what deals they wanted to strike or not strike. It enables us to move forward. It will enable us to hear back from legal on that issue, and then probably further, to address the driveway issue regardless of what the vote here is today. So I hope that this conversation will continue. The amendment that is before us is to go from '23 to 2018. Any further debate? Hearing none. Those in favor of the mayor pro tem's amendment, please raise your hand --

>> Second reading?

>> Mayor Adler: Second reading, well, it's the amendment to the motion which is on second reading only. Those in favor please raise your hand. Those opposed? Unanimous on the dais with Zimmerman voting know and Ms. Houston abstaining.

>> Mayor?

>> Mayor Adler: Now back -- we're now back to the motion, which is second reading approval as was reported in the backup, with the exception being the deletion of the yaupon access point. Ms. Tovo?

>> Tovo: I have another question for staff about a matter that came up a couple times.

[11:50:24 AM]

Mr. Guernsey, can you speak to -- Mr. Cavanaugh has said the kennel he's envisioning would not have outdoor access for animals. Is there anything in the site plan that codifies that?

>> The site plan shows a proposed dog kennel three stories, 5,000 square feet per story for a total of 15,000 square feet. It shows that there is a gravel area that is on the west side and east side, and to the south side of the facility. We don't have the design. I don't believe Mr. Cavanaugh has submitted a set of building plans. He could have a run outside. It's not uncommon for most pet service type uses in the city to have animals go outside, kennels, we have indoor/outdoor where there could be -- I know it's a better question maybe for him to answer. He could even design a run on top of the roof of the building to exercise animals.

>> Tovo: Well, we did ask him and he did say he intended to have the animals inside, which let me say, I have mixed feelings about. I have a dog. If I board him in a kennel I expect that he's going to have outdoor access, as I'm sure a lot of pet owners do. However, because this is a tract of land in close proximity to bull creek and the city of Austin has removed dog -- you know, the outdoor dog access that we had in one area along bull creek because of the quality of the water and the concerns about how it was being impacted by leash -- leash -- dogs off leash, that, you know, that came up as a -- as a question in our previous discussions. Mr. Cavanaugh said he intended to have no outdoor access, and so what I was asking you was was there anything in any of these agreements that would codify that that's the case, and it sounds like -- it sounds like there isn't.

[11:52:25 AM]

He would have the ability to provide outdoor access for those animals if he so chooses. There's nothing in any of our agreements or requirements before us that would prevent that from happening.

>> That's correct.

>> Tovo: Okay. And let me just say that that's something I'm going to have to think about between here and there. I understand that we're negotiating an agreement, but we are as a city providing benefits for the agreement that we're contemplating, and I would like some more information from Mr. Lesniak about how -- what kind of assurances we have that that's not going to impact water quality if we had a lot of animals on that site outside in close proximity to bull creek. And then I've brought it up a couple times and so I'm starting to get concerned that I'm sounding overly concerned about this point, but just know that I know we have language in our agreement indicating, you know, kind of buyer beware that the city is not standing behind -- we're not making claims about the value of the impervious cover credits, but if that is the only language we intend to provide, if this is contemplated for passage on third reading, Mr. Cavanaugh, I would like you to just come up and assert that you understand that that's the case and that it's not going to be redealt at any point in the future. So we can handle that on third reading once we're at that point, but I would also just like to request a conversation with city legal about the language we have in there and whether there's any interest or need to bolster it. I just very much want to prevent us from being in a position or future councils from being in a position where they're asked to renegotiate the impervious cover credits to the detriment of the city's finances.

>> Mayor Adler: Further comment on this resolution to approve as posted but also deleting the yaupon entrance?

[11:54:31 AM]

No further discussion. Those in favor please raise your hand. Second reading only. Those opposed? It's unanimous on the dais. We'll now move -- that's approved on second reading.

>> Do we need to go on and agree which the third reading will be when it's before council? Do we need to place that on the agenda? Do we need to do that now?

>> Mayor Adler: Staff will put it back --

>> Yeah, we'll put it back on the agenda. Not know what the impact would be of second reading in Mr. Cavanaugh's opinion, I'm hesitant to say I could give you a specific date everything will be worked out. It would cause a change to the design of his site plan, and we would have to take a look at that. I understand no access to yaupon. Staff may come back and ask about limited access for fire safety and give you an option on that, which is different than just having regular vehicle access, but should there be some disaster event, fire occur on the property, that fire access would also be precluded based on no access to yaupon. So we'll take a look at that and talk with the fire department as well.

>> Gallo: And there is no fire access at this point other than spicewood, is that correct?

>> If they were to build the structures, all the access came off spicewood, we want to make sure our fire department also has adequate access to get back to those buildings.

>> Gallo: And I would imagine that the owner of the property would be appreciative of us moving this forward as quickly as we can, so we could do that.

>> Mayor Adler: Let's do that, and I've asked my office also to look at trying to set an executive session on Tuesday or soon thereafter discussion about the grandfathering rights associated with this tract. The next item we're going to move too here quickly before we have citizen communication is the element of no. 5 that we passed over.

[11:56:36 AM]

Is there -- Ms. Tovo, a motion to appoint, designate Pamela Lancaster as chair of the municipal civil service commission?

>> Tovo: Yes, mayor, thank you.

>> Mayor Adler: Seconded by Ms. Pool. Any conversation, discussion on this issue? All those in favor raise your hand. Those opposed? It is unanimous on the dais with the exception of Mr. Zimmerman voting know --

>> Zimmerman: Abstaining . >> Mayor Adler: Abstaining, and Ms. Garza off the dais. That gets us to Noon. We're going to move ahead then to citizen communication. Fubz spub that write-up are first speaker we have in citizen communication is volma Overton.

>> Good afternoon.

>> Mayor Adler: Good afternoon.

>> Thank you so much for having me.

>> Mayor Adler: You have three minutes.

>> Yeah, so I believe there is a solution to a traffic problems that we're not really talking about. I believe that solution is driverless vehicles. By the year 2040 the institute of electrical and electronic engineers believes that 75% of all vehicles on the road will be driverless. Morgan Stanley predicts that driverless vehicles will save the United States \$1.3 trillion a year. That's by reducing fuel consumption, reducing car crash costs, and boosting productivity in the office. Already the U.K. And France allow driverless vehicles to be on public streets. Chrysler, Ford, Nissan, BMW, Audie, Google, test Louisiana, apple, all these players have driverless vehicles in the works.

[11:58:45 AM]

Some are predicted to be on the road in as soon as three years. Now, driverless vehicles relieve traffic

because obviously there's no rubber-necking, there's no distracted driving, there's better merging, shorter gaps between vehicles. Google just announced their test vehicles have driven literally millions of miles with zero accidents, a few were caused by human error. But also parking frustrations in this town could be eliminated. It's one of the reasons I ran a little late today. But driverless vehicles are allowed to park themselves. They're allowed to have more cars in the same amount of space we currently have. Elderly, the disabled, and children will have a lot more mobility. So what I'd like to propose is that since Austin is a technical town, Forbes and Wall Street journal named us the tech city of the year this year, so we need to use some of this technology to understand that driverless vehicles are going to be the future. It's not a matter of when -- or I'm sorry, a matter of if they get to the roads but when. We've already failed at preparing the city for traffic relief. This is a technology that is going to hit the streets in as soon as three years, and I believe we need to incentivize these companies to come here to help potentially alleviate our traffic problem with this technology. So I believe we need to start to prepare and talk about driverless vehicles being in Austin. That is a real solution that's going to hit the streets, and I would hate to see our city be behind that technology, because we are a smart city and we're a growing city and we need to look at every aspect of traffic relief and driverless vehicles are certainly going to help that. Thank you for your time.

>> Mayor Adler: Thank you very much. Next speaker is Tommy Eden.

>> Mayor, while he's on his way out.

>> Mayor Adler: Excuse me, sir. Mr. Overton?

>> Tovo: I just want to, number one, thank you for being here. You always have interesting ideas when you are, so thank you.

[12:00:47 PM]

And the previous council did pass a resolution related to asking staff to look at driverless vehicles, and I've forgotten the details of that, but I just wanted to let you know, and if you want to be in touch with my office, we'll make sure we get you information about what that work was and what the status of it is.

>> Excellent.

>> Tovo: Thanks.

>> Thank you, Ms. Tovo.

>> Mayor Adler: Okay. Tommy Eden and Bill Oakey is on deck.

>> Thank you, Mayor Adler and city council members. Thank you for allowing me to speak about the bike lanes on South Lamar boulevard. My name is Tommy Eden. About five years ago, I came to the city council, asking you to make safety improvements for bicyclists on South Lamar boulevard. Now, I realize that not everyone who's here today was -- who's serving here today was there five years ago. Okay. That's an understatement. I guess only one of you was. But everyone who is here today has an inheritance from the previous members of the city council. And as for the city staff, most of the people who are working here today were here for more than five years. I'm here to say thank you. Thank you to the city council, thank you to the city staff. As I speak, the improvements that you have made are literally saving the lives of Austin bicyclists. The task of getting bike lanes on South Lamar was not simple. Every few months I would ask the city staff for a new estimated completion date, and they would estimate a date a few months later, after which I would ask the same question again. Last year, the staff notified me that the project was no longer funded.

[12:02:51 PM]

That condition was unacceptable. After I requested assistance from the mayor and two city council members, and the city manager, I did get a telephone call from David Magonia in public works. The new

facilities would be buffered bicycle lanes, to be installed following a street rehabilitation project. The project would be completed by spring 2015, probably by mid-april. True to Mr. Magonia's word, the project was completed on time. These new bike lanes are transforming south Lamar boulevard from among the most hazardous routes in the entire state for bicyclists into one of the safest. Thank you, thanks to the city staff, thanks to the people in public works, and in the transportation program. Thank you for making safe routes for bicyclists a high priority. I know that you will soon be writing your budget. Please continue your support for bicycle priorities.

>> Mayor Adler: The next speaker is bill Oakey, with latreese cook on deck.

>> Thank you, mayor Adler and councilmembers. I am the writer of the blog austinaffordability.com, and I'm here today to ask you to please consider adopting a formal affordability strategic action plan. I have handed you just a few of the ideas that I have worked on over the past couple of years doing extensive research, and I believe that some of these reforms can be enacted in time for this year's budget, and I really hope they are.

[12:04:51 PM]

One of them is truth in taxation. It is long past time that the city publish a taxpayer impact statement with the budget that tells people how much their taxes are really going up and not just the tax rate. This reform is based on a proposal that I took to the Texas legislature in 1987, and it was passed and signed into law as house bill 328. I also think that it's time to get a handle on budget surpluses. And so I propose that from now on, there be quarterly budget versus actual statements published on the city's website and reviewed by the audit and finance committee and any surplus should be applied to help reduce taxes for the taxpayers as soon as possible. A big one that I'm really interested in, that I haven't had a chance to talk about publicly much, has to do with a way to finally get rid of taxpayer subsidies for special event fee waivers. Mayor pro tem Kathie Tovo sponsored a resolution last year that was passed, and one of her suggestions was to use funds from the hotel occupancy tax. Well, I will tell you that the hotel occupancy tax has grown. It's skyrocketed from 51 million in 2012 to over 70 million in 2014. The city is not using all of the available options under state law to use that hotel occupancy tax, and if it's growing that fast, please use some of it for relief for the general taxpayers. I have some things for senior citizens, I would like for you to enact the indexing of the over 65 homestead exemption. It needs to be indexed every year and it's being worked on. This should be done by this year's budget. Last year I got the city council to increase the over 65 exemption for the first time since Ronald Reagan was president, so we don't need those long gaps anymore.

[12:06:53 PM]

I'd like for you to ask capital metro to reduce or eliminate the fares on senior citizens and disabled citizens that took effect this January. With the failure of the rail bonds, there's plenty of money to help out those folks. There needs to be a cap on vacant staff positions. The Honolulu plan is what I'm recommending, where a central office in the city manages those funds.

[Beeping] I'll send you some more details later on these proposals, but I just want to say one real quick thing. The taxpayers are badly shaken. Reforms must be undertaken. The time for talking about affordability is behind us. The time for action is now. Thank you very much.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: I'm sorry, just a moment. Mr. Oakey?

>> Zimmerman: Mr. Oakey, quickly, we are preparing to put up a resolution on the council message board. Do you read the council message board?

>> I have and it's quite fascinating.

>> Zimmerman: Okay. We're going to put up a resolution regarding budgeting to limit base wage increases for non-sworn city employees to the bureau of labor and statistics. It might not surprise you that the wages have gone up .8% in 2014. But the current proposed budget has like a three percent increase. So wouldn't it make sense to tie the increases of city employees to the median increase of the rest of the community?

>> Well, what if I told you that the last time teachers and retired state employees got a cost of living increase was in 2001? And I want to say before I sit down that I really appreciate all seven women on the new city council. They have been tremendously helpful on affordability. Thank you.

[Applause]

>> Mayor Adler: Latreese cook with Amy hilbrook on deck.

>> Good morning, mayor and all councilmembers, and I truly appreciate women in business and I also appreciate the assistant city manager, Mr. Anthony snipes, and all other city management people who always are available to listen to the requests and cries of the public and the community and always willing to help.

[12:09:16 PM]

So I appreciate all you all's service. My name is latreese cook. I'm the executive director for minorities in equality in employment education, liberty justice center, also known as meeelj. We are not an advocacy group, not a council or entity studying the issue. We are actually a provider of services. We are ten years old and started our operation in bastrop county and officially opened in Austin August of 2014. I am also a radio talk show host with kzi 88.7 fm, and from this organization, a show has been developed and now for approximately two years, and we specifically discuss issues and resources that effect this particular population. I'd also like to say that I have visited with many councilmembers, councilmember Zimmerman, councilmember Renteria, Ms. Houston, Greg Casar, Delia Garza, and many of you all's chief of staff members with regards to the work of our organization. Our organization is specifically designed for persons that have gone to prison and their families. We and I had the families to get reacclimated back into the community and stay clear of being reincarcerated in every way. Our services are unique and specifically designed to meet the needs of those persons who have been labeled felon. Since we've been in the city of Austin and Travis county, we've had a hundred percent placement for those program participants seeking employment and here, eight months later, all are still in their respective companies. We have enrolled two persons back in college, and they've received loans to go back to the local community college. We have sent program participants into residential treatment, to one of our partner facilities in Fort Worth, which many haven't even heard of, and that seems strange to me when you're in this business not to have knowledge of treatment that is good, effective, and affordable, to refer persons in need, to go to.

[12:11:27 PM]

Two years ago, the Austin -- I mean the African American resource advisory commission approved a resolution and a budget for an entity to be funded to aid the specific resource that was outlined in the quality of life initiative. We are here to ask for your financial support for this community of persons who need our help. Your constituents, your neighbors, and in your districts. We have to have money to operate and provide the resources to persons in many instances that are not working. I --

[beeping] I wanted to acknowledge that the economic development had included us in conversations that they have with entities that were coming in to do business in the city of Austin who were seeking, as a part of their incentive package, and that really worked because one of the particular entities, U.S.

Farathane has utilized people from us and they're still there today. Harry Truman said a society shall be judged by how it treats the weakest members. These members are the weakest and sickest in our community. How will Austin be judged?

>> Mayor Adler: Thank you very much. Next speaker is Amy Hilbrook, I'm sorry, Ms. Houston?

>> Houston: If this is not the time, I just have a question about resolutions that go forward from the last year. Where do those go? I've asked that before. Where do these eggs go to die? Because several of them from the African American advisory committee, the Hispanic/Latino commission, I'm not sure where they go.

>> Mayor Adler: I'm not sure where they have gone in the past, but the practice now is that every resolution that comes forward that we see, we're referring to a committee and I understand some of the boards and commissions are taking resolutions directly to committees.

>> Houston: Well, but these were in the past council session so we'll need to find some way to find those resolutions and then move them forward.

[12:13:28 PM]

>> Mayor Adler: I think that would be good. Mr. Snipes says that the staff will do that. Okay. Thank you. Next speaker is Amy Hilbrook. Is Ms. Hilbrook here? Kennedy, you're up. You have three minutes.

>> Tovo: Mayor, while we're waiting for our speaker, I just wanted to jump in here. I think she may need a -- but I just wanted to say I look forward to seeing where those particular two resolutions are, but I just want to give a little shout-out to our boards and commissions because very often the policies we enact at council council, certainly was true of the previous council, came from our boards and commissions so the politics work they do is important and I'm really glad we're going to create even a closer connection between the work that those boards and commissions do and the work we do as councilmembers.

>> Mayor Adler: And I think that is important, and it was the intent, as what we did, as we were setting up our system here, to ensure that none of those ever ended up in the cracks, that they, in fact, got put on an agenda for a committee to handle. Kennedy, you're up. You have three minutes.

>> Okay. I wrote this for Austin city council 8/24/2006.

[12:15:34 PM]

Speaking to terr .0 bull. At this time I address all United States business leaders who spend time and money providing Spanish interpreters for Americans. When we take a look inside the great American melting pot, we find a unique and ever-changing blend of cultures, the longstanding envy of the aliens. The ability to celebrate our difference -- differences is America's greatest strength. Any alien coming to live in America without the ability or the motivation to learn English is about as brilliant as me parachuting into Afghanistan and expecting to get along with Osama and his boys. The strength of our relationships begins, continues, or not, and ends with the success or failure in communication. Each partner owns half the problem and half of the solution. As free Americans, we have come to rely heavily on our universal language. Number one. The look in your eyes from across the desk, the courtroom, the altar, the depot, the criticizing creek, the bedroom, the boardroom, the bars, the plane. Or two, the touch given or received. Or three, the sound of a song in a heart or a sword in a soul, or four, the instant determination of my ability to stand alone -- pardon me espanol -- or the need to stand beside me and guide me at any given point in time. We've got a lot of learning to do. As free Americans, our greatest asset is our English language. The English language alone is more fearful, effective, and powerful than all the bells and whistles and missiles in the world. The incredible opportunities afforded to me as an English-speaking woman, born, raised, and living in America, have already been more than a basic human deserves.

[12:17:38 PM]

You all have left me humbled and eternally grateful. To allow and encourage any Americans to rely solely on their foreign language is a disservice. It compromises homeland security. It cripples us and it cripples them. Dependence not only restricts the advantage to take opportunity of life in America but limits the scope of their cultural contributions to the great American melting pot. Money being spent on Spanish interpreters could be rechanneled to English classes for aliens. We would be all -- we would all be immensely enriched. It's tie time for Americans to get on the road to the -- united States. Austin has opportunity to set a precedent for Texas, the nation, and the world.

>> Mayor Adler: Thank you very much.

>> Thank you.

>> Mayor Adler: Thank you. Next speaker is Eric bell. Paul Robbins is on deck. Is Mr. Bell here? Mr. Robbins. Mr. Robbins? Take your time. Take your time. On deck is Carlos Leon.

>> Can you cue it? Thanks. Council, at your committee meeting on Austin energy held April 23rd, you were misinformed by an assistant city attorney. Councilmember troxclair asked about revenue bonds requiring voter approval. The attorney replied, quote: There's not really -- there's really not authority under state law to take revenue bonds to the voters, unquote. Council, here is the address of the city's election history website.

[12:19:44 PM]

You will see election wordings and results going back as far as 19 -- as 1840. In accordance with the city charter, elections were held on revenue bonds for Austin's electric and water utilities throughout the 20th century. You can find 31 dates when elections were held between 1910 and 1998. There were two more elections not found on the website in 1890 and 1894. There were 121 separate propositions, with bonds totaling over \$17 billion in 2015 money. 60% of this money was approved by voters. So were these 33 elections held over the course of a century illegal? According to records, six members of this current council have actually voted in bond elections. Those that participated include mayor Adler, councilmembers Houston and Renteria, kitchen, policy, and Gallo. Did you six councilmembers vote in illegal elections? Now, there was a lawsuit over this issue in 1984, and it was determined that council had the right to issue revenue bonds without voter approval, but council did not have the obligation to do so. And for many years after this, elections continued to be held. And then elections stopped after 1998. Why? There was no official explanation given, but contributing factors included, one, a recession in 2001, deterring capital expenditures.

Two: Over collection of revenue by Austin energy, allowing it to pay for capital expenditures in cash.

[12:21:47 PM]

Three: A fair amount of bonds already approved by voters.

And four: New leaders that did not believe in public participation. For instance, four members of the 2009 city council did not want a public vote on water treatment plant 4, which has turned out to be a fiasco. In in closing, if anyone tells you that it is not legal to vote on revenue bonds, then ask them why six current members of council have already done so.

>> Mayor Adler: Thank you. Thank you, Mr. Robbins. Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. Quickly, could you summarize what happened in that lawsuit where I guess -- was it a district court that said that they didn't have to hold revenue of bond elections? Because it was in the state government code, wasn't it? That they had to have elections?

>> What happened was that in February of 1984, the council decided to vote for revenue bonds without an election. It was in the case of the south Texas nuclear project. That project went 460% over budget. The council reasoned, to quote Roger Duncan, who was at the council at that time, I wouldn't vote for it. And so they thought -- he said I wouldn't vote for it, so how is the average voter going to vote for it? But they didn't want to pay for the -- the nuke in cash because that would raise electric rates outrageously. So they were in a no-win situation. They basically voted for bonds without voter approval.

[12:23:49 PM]

They were sued. In May of that year, I believe it was Judge Paul Davis, ruled that the city had the right, but not the obligation, to approve revenue bonds without the reporters. The plaintiffs appealed. However, they were required to post a two-million-dollar bond, and these -- some of these people were penniless, so that didn't -- the appeal didn't happen. The city continued to have elections between 1984 and 1998 for everything except the nuke.

>> Zimmerman: Thank you. Thank you for that clarification. This is very important. We're going to look at this law enforcement I'm going to look at this later. Thank you.

>> Mayor Adler: Thank you. Mr. Leon.

>> Thanks, Mayor Adler, Carlos Leon. I've been in Austin, Texas, May 14th. First and foremost [speaking in Spanish] For letting me fight evil. Last week, then, Renteria stated the commission on immigrant affairs, and to the public safety commission were opposite the truth. Renteria said Mendoza's reposting of comments calling Obama, quote, a homo and piece of bleep was disrespectful of our president. But when Barack came to Austin July 10th, 2013, he flirted home sexually with the counter guy at, disrespecting his wife Michelle who Joan Rivers publicly out as trans gender and Barack as gay.

[12:25:58 PM]

And disrespecting Austin it's, document on screen. In fact, Barack has never proven he's constitutionally eligible to be president. In fact, his released birth certificate was proven fake. Michelle says Kenya is his home electricity and that he's Kenyan. And for 16 years his literary agency claimed Barack was born in Kenya. Therefore, Barack Obama appears not to be a president to respect, but an illegal immigrant impostor to impeach and imprison. Camera on me. Renteria also said because council should pick productive citizens for commissions to make Austin safe, he was voting against Bueller's waiver. However, Bueller has successfully fought evil for years in Austin, founded and furthered the peaceful streets project, and legally held APD accountable for its actions, so they protect and serve us, not attack and abuse us, making Austin safer for all of us. Therefore, Renteria appears threatened by strong, independent, intelligent, articulate men, male leaders. This female-majority council desperately needs but rejects. Instead of a new way forward serving the lord, you're dancing backwards with the devil. Renew your mind now, before 10-1 fails completely and destroys Austin. In Jesus' name, I pray, amen. Thank you, lord, and God bless Texas.

>> Mayor Adler: Thank you. Mr. Renteria?

>> Renteria: I didn't even say anything about that, about Bueller with the other, it was about Jaime Mendoza that I was quoting, and I'm sure that -- I just wanted to make that correction for the record.

[12:28:04 PM]

>> May I respond to that based on --

>> Mayor Adler: No. No. You've had a chance to make your statement, and they both stand. They both stand.

>> Okay. But if you check in the record for the [inaudible]

>> Mayor Adler: Thank you. The city council will -- the city council will go into closed session to take up one item. Pursuant to session 551.071 of the government code the city council will consult legal council regarding item 27, legal issues related to the city council resolution directing the city manager to file a challenge petition for the Travis county appraisal review board. Item 28 has been withdrawn. If there's no objection, we'll go into executive session on the items announced. Hearing none, the council will now

[2:29:56 PM]

>> Mayor Adler: We are out of closed session. We have a quorum. On the dais. In closed session we took up and discussed legal issues related to item 27. In the five minutes prior to addressing item number 6, so that we can let lots of people go, can you real quickly take us through the consent agenda for zoning.

>> Thank you. Let me go through our 10:00 A.M. Item. I'll go as quick as I can. Item 9. This is ready for consent. Approval on number 9 for second and third reads. Number number 10, is 00007. At 9500 Alice Mae lane. The applicant asked for an one week postponement and the signatures have not been obtained so it's offered for consent postponement. The other items, the public hearings are open. 11 and 12 will be discussion on a postponement. 13, an applicant's request for a postponement to June 1. For the property located at 2901 Cameron road. That's an applicant request for postponement to June 1. Item number 14. Located at 4102 manchaca road. Austin transportation department is doing traffic studies on this and staff asks for a postponement of this item to 6/1. Or June 11th.

[2:31:56 PM]

Item 15 and 16 of related cases. 2015-0172 for the property located at 5610 and 5804wier hills road. Staff is requesting a postponement to the June 11th meeting. Item 16, c14-85-288.36. Staff is requesting a postponement of this item to the June 11th meeting. Item 17 is 2015-0181. More property on the northside of he will Roy road. Planning commission's recommendation was to grant community conditional overlay, combined district zoning and this is ready for consent approval on all three readings. Item 1. Item 18 is 00035, property located at 8060 west U.S. 290 highway. To neighborhood to neighborhood commercial mixed use. The planning commission's recommendation to grant conditional overlay, and lr, mu, comp and ready for approval on all three readings. Item 19. 0016 for the property located at 7864 thaxon road. And the zoning planning commission's recommendation was to grant single family residence and this is ready for consent on all three readings. Item 20 is 2015-0031 for the property at 11411 north fm620 road.

[2:33:58 PM]

Staff requests a postponement to the August 13th agenda. Item 21 is c14-2015-0033, located at 3714 manchaca road. Combine district zoning, the planning commission's recommendation was to grant the lo-mu and it's ready for consent on all three readings. Item 22. Is 2015-00333. At 1300 west wells branch parkway to zone to townhouse condominium. The planning commission's recommendation. And this is ready for consent on all three readings. 0035, the property located at 10810 spicewood parkway. The planning commission's recommendation was to grant the sf2 and ready for consent on all three readings. 24, 2015-0036. The property at -- the zoning and planning commission's recommendation was to grant cs is-co combined district zoning, on this item, 24, staff would like to add in the limited warehouse and distribution. It's a center and we put that in inadvertently as a prohibited use and we would like to remove that. It contains about 15,000 square feet of a very large site. That's item 24. Item 25, 2015-0037, for the property at 5833 river place boulevard.

[2:36:04 PM]

The zoning and planning commission's recommendation was to grant the sf2 district zoning and it's ready on all three readings. And item 26, 2014-0015, for the property at 1513 east Annie street. The planning commission recommendation recommendation was to grant. And ready for approval on all three readings and the last items on the 2:00 agenda. Item 29. This is the one that the staff used the wrong form. For the property located at 6000 mountain shadows drive. A zoning change to neighborhood commercial mixed use. Combined district zoning. The planning commission recommendation was to grant and and this is also ready for consent on all three readings.

>> What was the last number you did.

>> Item 29.

>> Mayor Adler: Didn't we have a postponement on number 30? I can read that postponement into the record. I don't know the date it was to be postponed to. But item 30 was regarding an appeal by Daniel Llanes, the planning commission's approval of a variance which prohibits the building or parking area within the primary setback for the waterfront overlay in the red bluff hotel. I know it's a postponement to may 21st. So staff can also offer that as a consent to may 21st.

>> Mayor Adler: Is there a motion to approve the.

>> I have a question.

[2:38:06 PM]

Mr. Guernsey. I need to know what the conditional overlay is on item number 22. It wasn't listed in the -

>> Item 22 had a triple limitation of 2000 vehicle trips per day approved by the zoning planning commission voted 6-0 on item 22.

>> Thank you.

>> Mayor Adler: Is there a motion to approve the consent agenda. Mr. Zimmerman. Any conversation or discussion? Ms. Gallo G. Ganches there was an agenda item to August 13th and I was curious why the postponement.

>> The zoning and planning commission has not yet considered the case.

>> Mayor Adler: Sorry, say that again. That's in my district. You said July, I wrote down that you had it for August 13th when you read it on the record.

>> The zoning and planning commission --

>> I see. Good.

>> Mayor Adler: Okay. Any further discussion? Seeing none, we'll take a vote. All in favor of approving the consent agenda as read, please raise your hand. Those opposed. It's unanimous on the dais.

>> Thank you, mayor and council.

>> Mayor Adler: Thank you very much. We'll now call the item number 6 6. We have 20 citizens waiting to speak. Ms. Houston, I'm going to recognize you for I motion.

>> Houston: Thank you, mayor. On behalf of the health and human services subcommittee: I move that the council direct the city manager to approve an applied behavioral analysis in the package beginning January 1st, 2016 and report back to council during the 2015-2016 budget process for projected costs.

[2:40:27 PM]

>> Mayor Adler: That's consistent with the recommendation in the backup. Is there a second? Ms. Pool.

>> I'll second it. We have a motion and second. Ms. Garza, do you want to make a substitute motion.

>> Garza: This is about a specific item, so is this requesting an amendment to my item?

>> Mayor Adler: No, there --

>> Houston: No, I'm reading into the record what the committee moved out of committee.

>> Mayor Adler: We have an item referred to committee on item 6.

>> Houston: Right.

>> Mayor Adler: The description of the posting is broad enough to include the recommendation of the committee. So the committee recommendation as contained in the backup. Was just made as the motion coming from the committee, it was seconded and if you would like to make a substitute motion to that, being your resolution, I'd entertain that now.

>> Garza: So I make a motion to consider -- but I thought we'd hear from the speakers first. But to consider my resolution as included in the backup.

>> Mayor Adler: I understand. Is there a second to that.

>> I'll second, I had another amendment --

>> Mayor Adler: We'll get to that in a second. I wanted to lay that out.

>> Sure.

>> Mayor Adler: We a motion being debated and now I go to public comment unless someone want to make comment before we do in a [inaudible] Ms. Pool seconds the amendment. Gin joins in the second of Mr. Zimmerman to Ms. Garza's.

>> May I join the motion to vote for waiving the four speaker rule.

>> Mayor Adler: Any objection to waiving the four speaker rule on each item. Seeing none, we'll waive that. We'll call the 20 people waiting to speak. Should we keep with the two minutes, Mr. Casar. The two minutes for each one?

[2:42:32 PM]

>> Casar: I would defer to hearing from the health and human services committee folks because I -- because I didn't get a chance to touch base with people that watch that committee hearing.

>> Mayor Adler: We have a standing rule that limit it is to eight speakers two minutes each there was a motion to waive the limitation to eight speakers. And that was granted and now we have an unlimited number of speakers at two minutes. If someone want to make a motion to change that, Ms. Kitchen?

>> Kitchen: I move in this circumstance we keep with our three minutes.

>> Mayor Adler: Okay, it's moved to change that standing rule to allow each of the speakers to speak for three minutes. Is there a second to that motion? Ms. Garza.

>> I thoughts the resume was once the issue was heard in a committee, the time was two minutes by rule. We have override the rule? What would be the requirements for that simple majority to override a rule?

>> Mayor Adler: We have a requirement it contains several parts. One is a limitation as to the number of people and one is a limitation as to time. There was a suggestion to remove the limitation as to the number of people. Without objection. It was approved. There was a motion no remove the limitation with respect to time. It's been seconded. Is there -- motorcyclist?

Ms. Houston. >> Houston: I want everybody to know I didn't look at the 20 people who have signed up. But we've had two public hearings and many of the people spoke on the first go-round. The second go-round, we had another group of people who have spoken. So I would be willing to do the -- but you -- we've already passed the rule, haven't we?

[2:44:33 PM]

>> Mayor Adler: We've opened up to an unlimited number of speakers. All 20 will be selected. The question before council now is whether or not to change the limitation from two minutes to expand it to three minutes per speaker.

>> Houston: I would say two minutes.

>> Mayor Adler: Okay, then you should vote no to the motion to enlarge time. Further discussion. Ms. Troxclair? It.

>> I guess I would -- I'm curious if there was -- sorry, I missed the motion to waive the eight person resume. I would like to have a discussion on that.

>> Mayor Adler: That's been passed. So you would need to -- motion to reconsider. Let me back up. So you could do that, but it's not in order to do that right now. So we have something pending now, which is the change from two minutes to three minutes. Per speaker. And we can come back to you on a motion to reconsider. That earlier one and I'll do that after we handle this. The issue before us is expanding from two minutes to three minutes. Yes, mayor pro tem.

>> Tovo: I don't have my committee ordinance with me but I thought I remember and it's possible I'm wrong, but I thought I remember when we waived the requirement, when you have four councilmember who is waive the requirement, or the restriction on speakers at council, that it went back out to the regular time period. Three minutes. So I wasn't aware that it kept it at two minutes.

>> Mr. Mayor.

>> Mayor Adler: We need a person who has a copy of the ordinance. Mr. Casar.

>> Casar: If the item had not received a hearing at committee, that's when we had the restriction, in this case, because of complicated issues we went over at work session, it was posted as an item at committee and the motion we heard to on the discussion was heard at committee.

[2:46:49 PM]

So that's why my understanding this exact item had already had a hearing at committee and, therefore, I would have to waive the requirement for us to hear from a number of speakers that probably expected they'd be heard today. And my understanding is the reason when this was an ifc from four councilmember, the reason we want unlimited public testimony because this would not have been a chance to hear the item in committee.

>> Tovo: I remember that part.

>> Casar: In item before us, unfortunately, I think has a councilmember that sponsored it and a suggestion from committee that are packaged into one on the agenda as items from the committee. So my understanding of the ordinance is this is an item from committee based on the agenda that's already had a hearing.

>> Mayor Adler: Do you have a copy of the ordinance?

>> Tovo: When you have four councilmember who is waived the public hearings restrictions whether it goes to two minutes or three. With -- was the substance of my question which I can't answer without the ordinance.

>> Mayor Adler: How many people are going to -- if I could, how many people are going to vote to allow three minutes of testimony on this item?

>> How many people are signed up to speak?

>> Mayor Adler: 20.

>> So we're talking about a difference --

>> Mayor Adler: Yes, talking about 20 minutes. It would be an additional minute --

>> Right, 40 minutes or --

>> Mayor Adler: An additional 20 minutes.

>> Thank you very much U thank you, I wanted to clarify.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: We're getting used to the rules and we're not clear and the public is not clear. You know, so we need to remind ourselves ahead of time. The folks who have come today came with the expectation they could speak for three minutes and I think we should just allow in this time and for future reference we'll remember.

[2:48:50 PM]

[Applause] And I apologize because I didn't think about this ahead of time either. So that's why I suggested we just go ahead and allow it.

>> Mayor Adler: I would support that as well.

>> Mayor.

>> Mayor Adler: What I'm hesitant for, if our ordinance says four people could waive it and there's -- and this vote doesn't happen, then we may be caught somewhere so I was trying to get just a trial feel for what the vote was going to be. Because if the vote exists to allow three minutes to talk, we don't run into a problem which the mayor pro tem has raised. My question again would be -- can I take an informal poll the people supporting three minutes versus conversation. Okay. So if it's okay, I won't make that ruling. I will ask for a vote on the motion right now to extend the three minutes. All please raise your hands. I have six votes. Those opposed. Please raise your hand and those abstained. The votes for the six minutes were the mayor pro tem, pool, kitchen, Garza, Adler and Casar and Gallo and the others voted no. So -- [inaudible]

>> Mayor Adler: What?

>> I wanted to make a comment.

>> Mayor Adler: We're going to let everybody have three minutes. Ms. Gallo. We want to make sure we're sensitive to people who have taken the time to come down here and speak before us but as councilmember kitchen said, as we maneuver our way of doing things. Part of the reason to have committee meetings was to allow more conversation within that and not restrict but limit the amount of communication before council. So thank you for coming down here. We'll be -- we'll be delighted to hear you, but if you would help -- be considerate and conscious of the time factor, we're making an exception for, we appreciate it.

[2:50:58 PM]

Thank you.

>> Mayor Adler: Okay, we're going to begin the public hearing on this issue and we'll find out what the provision is with respect to that and I'll post it on the bulletin board so everybody can see what the rule is. We have speakers speaking on item number 6. Is Gus Pena in the room.

>> Here.

>> Mayor Adler: Mr. Pena. My sense for everyone, so that you know, my sense is that this is going to pass today. Everyone that is speaking is voting -- is speaking in favor of it and I just wanted to give you kind of my sense for what it is that's going to happen. Mr. Pena.

>> Thank you, very much, Gus Pena, proud citizen of east Austin and veteran. I understand the rules, I understand the Robert's rules of order but you have kids who don't have coverage and we're working at somethings that counter product for the children. I'm going to keep it at two minutes, you voted for two. This is adopting a policy to provide city employees, the behavioral analysis benefits and as part of the city employee benefits. We shouldn't be having this conversation of. The county have this funding for employee coverage for Ada. One child is too much that doesn't have coverage. With due respect to this child's parent, can you stand up? Quinn, can you stand up? Can we give a round of applause for Mr.

Quinn here.

[Applause] These are the young folks we need to steer correctly with coverage that's appropriate and necessary. So let's stop dicker and just go for it.

[2:52:59 PM]

You know, apply the funding for this initiative. Okay, 4-0 vote on the committee, but not everybody has the time to come to committees. This morning I was at the doctor, mayor and -- I need to call you Steve. Mayor and councilmembers. But but not all of us have the time to take away from our livelihood to happy in committees. We support in. Veterans for progress. Alla 4500 strong. Army, Navy, air force and National Guard. But remember, Mr. Quinn who needs the coverage and the families. Follow the Austin independent school district lead and provide employee coverage, this is a humanitarian issue. Keep it for the people who need, it the children, the parents, thank you very much.

[Applause]

>> Good afternoon. My name is Jonathan. Husband of Lisa whose name you recognize from her tireless efforts to apply the analysis to the children -- children of the employees of the city. I'm one of those employees of the city of Austin. And what's more, I'm proud to be an employee of the city of Austin. I'm proud to work for a city that cares sop for so many things and make it is safe for cyclists and cares for homeless and mentally ill population and forgoes road to save something like a salamander. The city even has a fund to provide healthcare for local musicians and I'm proud to work for this kind of city but three things make it baffling that the city would deny -- I have two children with autism and they receive therapy.

[2:55:06 PM]

Progress they've received which is considered best practice by more organizations, I name. They've made progress and on track to join their age group. It's hard work but the alternative, what's covered by the city's man is solely medication. Which would sedate them and dull the behaviors the therapy could correct. Medication is designed to address city managers that come up in any disorder. I'm not saying that medication is wrong. It can be beneficial for curbing the -- aggression or anxiety or obsessive behaviors. However, there's no -- the therapy is the designed to work for kids with autism and bring about meaningful and positive change in behavior. Due to the age of my children and the severity of symptoms and likelihood for improvement with therapy, medication has never been considered as an option by our pediatrician. I'm sure all doctors would agree and have by the endorsements, they wouldn't treat a 3-year-old with brain altering medications before using therapy. I see the results on the few days I get to see my kids. The hours when I'm not working overtime to help pay for the therapy. I'm asking you to add this therapy to the city's health plan. To give hope to the autistic children that come after mine. Thank you.

[Applause]

>> Hello, everyone. I'm Lisa, and so in light of recent -- all of the drama going into this, I will completely forgo my -- and speak off the cuff.

[2:57:09 PM]

First of all, I'd like to say, and enlighten you that at the first health and human services committee hearing we had 12 people who showed up but in the interests of time. We scrapped all 12 speakers so those people have come back today to speak again. So thank you for taking the time to hear them today. And at the next health and human services meeting, we did have more show up and just getting

that out there. I wanted to clear that up. I feel like I have seen the members of the health and human services committee grow in so much understanding, not just about autism, but why it is so complicated to estimate the cost of this therapy and I completely understand because until you have a child with autism or deal with it, I wouldn't dream you would have to educate yourself that way. I hope you never do. It would be my wish you never had to. However, I have, we have, we have spent countless hours attempting to educate you, give you the information so that you can adopt this -- as a policy and add it to your base budget. I have the utmost respect for you but I'll stand here and say it's baffling to me that you -- now it seems the idea behind it is that all of these different amendments want to somehow put parameters on that benefit with the most respect, I believe four months ago, none of you either knew what applied behavioral analysis was and maybe some of you had a limited understanding of autism. I ask that you trust the data we've given you, the information we've given and leave those decisions up to that data rather than just trying to do one budget line item. For example, doing the one budget line item, I ask you to think about and put a cost on letting your child speak. And if you can't put an exact dollar amount number to that, then I would challenge the idea that you could hear today with any kind of amendment.

[2:59:20 PM]

Thank you for your time.

[Applause]

[Inaudible]

>> Mayor Adler: Is Deborah here. You have six minutes. Take your time.

>> Thank you. All right, thank you. My name is Jackie, my spouse is a firefighter in the Austin fire department, our 10-year-old was diagnosed with autism at two and a half and we're on the city of Austin health benefit plan. I need a couple of minutes. For the last five years, I've appealed to human services and asked to have applied behavioral analysis be covered by the city of Austin health plan. Every year, I've been told it's just too expensive to cover what is considered best practice in autism treatment. I just want to show my son. This is him before he turned two when he was diagnosed. He's 10 and a half now thank to paying out of pocket for aba. It's unacceptable to me that the most effective treatment is not available to my child and other individuals with autism in our healthcare plan because of perceived costs. Over the years I've been appealing for this benefit, we've got more actual cost data from Austin speaks and been covering the benefits for six years now. The data shows that the actual costs are considerably lower than the cost projections.

[3:01:20 PM]

We've spent many hours gathering data and meeting with you and your staff speaking here at citizen communications and presenting and discussions the issues at two health and human services meetings and working with national autism speaks and local autism society. We have endorsements for the mayor's committee for people with disabilities and the Austin fire association and we would like to thank our sponsors. We would also like to thank the health and human services for their careful and thoughtful consideration of this issue. It's time to make this happen for the city of Austin families. Since cost seems to be one of the biggest issues, I'd like to review the cost of data of cellphones to government entities that voluntarily chose. All of this data provided by autism speaks, the world's largest nonprofit autism advocacy group. The first slide, projected versus actual cost. This shows three state governments that provided benefits for their employees of the projected costs in green and the actual costs in lux south Carolina, the first state listed, you'll see they have almost \$10.6 million fiscal note 20 pay the costs associated with adding aba. In year two, the claims were only around \$2 million.

The actual costs 519% less than projected costs. We see this time and again. Actual costs in these states states were anywhere from 239% up. Next page, the cost of the autism insurance reform. This is a look at the per member per month cost of six state governments that added aba. In year three, the per member cost to premiums from 17 cents to 63-cent was an average of 43.

[3:03:30 PM]

The estimate estimates are two to three dollars per member per month which doesn't line up when aba benefits have been implemented. The next page, Austin ISD claims these are the 2012 to 2014 claims, that they've been covering aba since 2009. Paid out a total of \$362,370 for all aba claims last year and 34 claimants which averages to \$10,658 per child per year. Less than the \$30,000 to \$100,000 per child per year that towers Watson is projecting. We believe the city of Austin claims will not be far off knowing that the children will be using the same behavioral providers. If the out of pocket treatment can be tens of thousands of dollars per child, how can the claimed data be so low? You'll hear 24, that autism is a spectrum disorder and hours range greatly. Based on individual needs with many children just doing a few hours a week. My son son benefits in functions and language skills from that. It's important to remember that utilization of benefits is not 100%. Utilization of the benefits. Based on actual claims data collected by autism speaks. It's 30% to 50% with 26 children in our plan is autism, there could be a few as nine to 13 kids or individuals using this aba benefits. Thank you, that's the end of the slides. While I'm not an economist, it seems like common sense to look at the cost data data of what actually happened when aba was added versus guessing. Because you've been presented with sun variances in cost projections I and other parents spent countless hours coordinating with councilmember Garza's office and autism speaks and looking at how it's implemented in other healthcare plans so we could come up with something that works for families with children who have autism.

[3:05:51 PM]

We believe councilmember Garza's resolution is a great compromise and I would urge you to support the resolution to add aba at a level approximately 68 -- 680 hours annually per individual per year. For too long, families with children to have autism, that the city --
[buzzer sounding] Sorry is that six minutes? Sorry. Families with children with autism have been asked to go for their children to be the ones to go without coverage. It's not okay and not acceptable. Please support councilmember Garza's resolution with mayor pro tem's amendment, that quality of life matters and treatment for individuals with autism matters. Thank you.

>> Mayor Adler: Thank you.

[Applause] John hockenose and Kenneth Cassady on deck.

>> Apparently I have six minutes as well. I have amber -- amber's time though I'll try to be brief. I've had the opportunity to speak to this issue already in two health and human services meetings which I appreciate. And it's a real pleasure to speak to an issue where I'm not in a professional capacity. As a parent and advocate. I'm not a city of Austin employee. I have two children who are on the autism spectrum and I've been involved in efforts and successful efforts at the state legislature to mandate coverage for autism spectrum related therapy starting in 2009 and going through the 2013 session and I've passed out information here. I want to give you a little bit of a sense what has motivated me to do this.

[3:07:51 PM]

You hear the passion from the families and implicit in that, you hear their pain and it's something that has always stuck with me. I have a hard time talking about this when I imagine a family who has been told their child has autism or a spectrum disorder and facing uncertainty and fear and depending on the severity of their child's situation, lots and lots of potentially out of pocket costs. It's a challenging situation you have before you. Families who have borne this burden because as any parent would, they'll do whatever they can to help to improve the lives of their children. That's prompted me to work on this so hard at the state legislature and prompts me to come today before you and in front of the committee as an advocate for the families. A couple of points in all of this. I've given you five reasons why you should support this. I have included a backup cost benefit analysis. And done it in 15 states and testified in congress as well. The fourth point in my handout here, talks about other -- I guess it's maybe -- yeah, the fourth point. Talkers about other self-regulated plans, and there's a list of private sector groups. The last page, you'll see a printout of email correspondence between me and the head of human services for a self-funded plan detailing they'll be providing coverage at the end of this fiscal year asking me not to make public their name because they're working out the terms and conditions but I've included that email correspondence so you can see this conversation is going on in other places that are perhaps relevant to this. And the last point and I put number in here because I'm a Numbers guy. I can't help it.

[3:09:52 PM]

I understand the idea of not having an unlimited and unmeasured lightlies. Liability. It's hard to underwrite but there are safeguards in place that I want to remind council. This is not something that I as a parent can decide. I have to have a physician prescribe this. The physician says your son, Sam needs X amount of time per hour for Y amount of time. That's one safeguard. The second safeguard. I can't just go to bob's therapy shop. For the purposes of my insurance coverage and I think appropriate here, it has to be a properly credentialed service provider. You can -- talk through some of that. And third, it's actually as you've talked about, Jackie talked about some of it, human resources talked about it. Not challenging to get your arms how you can constrain this in such a way that it's picture impacting the city's financial situation. Certainly the budget is small. Somewhere between .2 to .3 of 1% of total claims paid last year. And fourth, which isn't in the write-up, this is probably the only benefit that only affects dependents of city of Austin employees. It does not not affect them directly. You may think that some staff need aba therapy, that's a separate conversation but the fact is, it's only about children, as the financing of health insurance is done here, city employees pay a nominal fee and then assessed a fairly substantial annual fee, on the order of close to \$6,000 for their dependent children and as I understand it, that doesn't make any difference whether you have one or five children. You pay that fee. The city episodically adjusts that fee based on a variety of factors.

[3:11:57 PM]

It did not adjust it last year or the year before. There's a mechanism in place to take a look at this but what you would do is go through the experience of having this for a year or two, and see what happens and say if there are adjustments that need to be made. I urge your support of this. It's life changing for the families sitting behind me. Thank you.

[Applause]

>> Mayor Adler: Mr. Zimmerman. Does.

>> I appreciate the fact that you're a Numbers guy. I thank you for coming. The speaker before you flashed a slide. Data provided and -- I wish I could put it up. But it shows the cost, total claims from 2012 to 2014. The average claim in two years, went from \$5,500 to \$10,600.

>> Yep.

>> Zimmerman: That should frighten someone when they see something increase double in it only two years. It's kind of frightening. What I've heard in a lot of these discussion, it doesn't cost that much, it doesn't cost that much and thinking here we go again. The cost doubles in only two years.

>> May I respond to that?

>> Mayor Adler: Yes.

>> Clearly it's a big percentage of increase. No question. But if you look at the data I gave you, the planned administrator is united healthcare. They estimate at let's call it a mature utilization, they think the annual number will be closer to \$24,000 per case, so that's one of the reasons you look at putting ceilings on things and caps on things. But even at that level, if you take the \$10,000 figure, let's take the \$24,000 figure, let's go on beyond that and do what your planned administrator says it typical and take staff's estimates the true utilization at 13 cases at \$24,000 a year, if you look at the last chart in my handout, that is the equivalent of a quarter of a percent of claims paid in -- in 2014.

[3:14:17 PM]

That's the second bar on that chart. So I guess I would submit, I agree, that rammed cost increases are a thing to be concerned about but there are ways to cap that. It can only go so far and again, I have to say that, you know, it is subject to being prescribed by a physician as being medically necessary.

>> Mayor Adler: Is there any further debate? I'm sorry, Ms. Kitchen?

>> Kitchen: Yes. Thank you for that explanation. I think wouldn't it be fair to say that this kind of coverage, this kind of benefit is different than other benefits, in the sense that -- I think that's what you're saying, right, it has to be prescribed. The utilization is not dependent on ram done events.

>> No.

>> Kitchen: It's not like somebody had a heart attack or someone didn't take care of themselves and ended up in the hospital.

>> No.

>> Kitchen: This is fairly prescribed -- well, it is prescribed, the number of therapy benefits. So it's not like your utilization might -- if you have a growth in utilization, it's most likely going to come because you have more kids.

>> Yes.

>> Kitchen: Not because any particular kid has a huge increase in their need, in the amount of therapy, although there could be variations from year to year, right?

>> No. That's in fact correct. Again, it's one of a suite of therapies. My children have received speech therapy, occupational therapy, recreational therapy, have done a variety of things. My fondest wish is for my children not to need aba anymore. I mean, that's the goal, you know? So -- by the way, it's not fun. You know, it's hard work at the end of the day.

>> Kitchen: Only other question I had, you had mentioned the \$6,000 fee, that's in line with -- or that's akin to a parent paying part of the premium, part of a monthly premium, which is designed to pay part of the cost.

>> Right.

>> Kitchen: So is it correct to say that when we're talking about cost to the city, these estimated costs, if we're estimating \$100,000 or \$300,000, whatever, that doesn't mean the city picks up all that cost.

[3:16:30 PM]

>> That's a decision obviously for the city to collectively make. Clearly what you have is a situation where already the fan -- the parent, employee, is asked to pay a supplemental fee which based on my

reading of the employee hedge benefits handbook is a little under \$6,000 a year to cover their dependent children. So the city can decide what share of any increased costs with this therapy to pass back to the families that have dependent children. That's a decision to be made collectively by the city.

>> Kitchen: Okay.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Yes, thank you. Final point here. I'm going to quote from an e-mail we received from the Austin firefighters association yesterday. Maybe you haven't seen this yet, sorry, but this was just yesterday. And the afa writes, I'm going to devote here "Afa recommends that the cost of this benefit speaking of the benefit in question is 100% financed by the employee. ."

>> So that's their recommendation. Would you agree or disagree with that provision?

>> I'm not sure I could tell you the exact percentage. Again, I think it's in part of this broader conversation about where everybody is, but I guess what I'm saying is there's a fairly clear mechanism in place to at least do some of the cost sharing based on what historically has been done here in the city, and I would leave it to you all and to staff to work out what makes sense in that process. What I think -- what I would be concerned about would be limitations that aren't based on science, on the ability of people to access care. So when we talked about 680 hours, which is in councilmember Garza's resolution, that's a figure that came from New York state, if I remember right, where they chose to set that as a reasonable upper boundary, which frankly it would be unlikely that people would hit to make sure that we didn't artificially for non-medical reasons constrain appropriate care for the kids.

>> Mayor Adler: Thank you very much.

>> Thank you.

[3:18:31 PM]

>> Houston: Mr. Hockenyos.

>> Mayor Adler: I'm sorry. Hold on, Ms. Houston.

>> Houston: One more question.

>> Sure.

>> Houston: Did the state of New York have any upper limit for treatment or was it unlimited?

>> It was 680 hours.

>> Houston: I'm talking about age, I'm sorry.

>> I don't recall, to tell you the truth. I would ask anybody else who might -- I don't think so, Ms. Houston, but I'll be honest, I don't remember.

>> Houston: Thanks.

>> Thank you.

>> Mayor Adler: Ken Cassaday.

>> He had to leave. He signed up and had to go to another meeting. He's on his way back. Can I ask that you be moved to the end?

>> Mayor Adler: Yes.

>> Thank you.

>> Mayor Adler: Jenny sevedra. Amy golden berg is on deck.

>> Good afternoon, thank you for allowing me to come to speak. I am jenny sevedra, owner of autism abspectrum therapy, and I'm a board-certified behavior analyst. As I was working on a presentation today I kept asking myself what was the most important piece of information that I could give to you guys about aba treatment for children with autism. I thought about talking about the effectiveness of aba treatment but I decided I'm going to let the research here do the talking for me on that point. These documents support aba treatment as an evidence-based practice and the most effective treatment for children with autism. Now I'm going to go a little bit off the cuff. After hearing some people speak, I

have some other things I want to say. When I work with insurance companies, as someone who provides aba treatment, I have a very detailed treatment plan I have to write up. I also have to plan for discharge, like John said, I actually want to be out of business. I want parents to have children out in the community, social, using full communication.

[3:20:35 PM]

We're not there yet. Just as a speech pathologist or a psychologist providing treatment would do, I have to turn in a treatment plan to those insurance companies for their specialists to review and then they have the ultimate say on what those services are going to look like. Medically necessary prescription is first written. Competently delivered aba treatment effectively and safely prevalent and reduces behavior that jeopardizes health and safety and often lead to expensive and largely infect medication and hospitalizations for children with autism. So by having competent aba treatment we can therefore reduce healthcare utilization and cost. I think after you add this benefit and you realize the skills and freedom you have given to these children's and families, it will be money well spent. I believe the limit of 180 hours a year to be sufficient to meet the needs of the mass majority of the children I see. Few children need that many, but for those that did this limit would then protect them. I'm going to talk about Quinn. You guys got to see Quinn. Lisa came to me with a prescription from medically necessary treatment, aba treatment, for 20 hours per week. We conducted an assessment and after working with Quinn and looking at his assessment, we determined actually only ten hours were needed to make socially significant change for Quinn. We also work with his sister, juniper. I don't see them here -- here's juniper since she wasn't able to be here. Both blond curly hair. She only receives four hours per week. It is going to vary for children.

[Buzzer sounding]

[3:22:39 PM]

>> Pardon? Do I. Lisa sat in on a therapy session with me the other day and Quinn was telling her all the things he could name and all the questions he could answer and she was shedding tiers. Tiers -- tears. I asked her what are you thinking? She said to me "He has come so far but he still has to far to go, he struggles still to communicate." So those are tears of joy and tears of mourning. He still hats so far to go and my work isn't done. You can look at these families out here and know that there still needs to be working done.

>> Mayor Adler: Thank you.

>> So I encourage you to pass this.

>> Mayor Adler: Thank you.

[Applause]

>> Amy Goldenberg and charity Bartel is on deck.

>> Hi. My name is Amy, I'm a certified H.R. Professional with expertise in benefits compensation. I have a 7-year-old with high functioning autism and he hats strong communication skills. Our family has had one major success with aba, and one ongoing effort with continued progress. When our son was two, he would rage for hours every day. It was heart breaking and devastating for our family. By age three his anxiety and sensory issues were so significant we couldn't leave the house. After getting diagnosed we received aba therapy and agreed that parent training was best. The therapist taught know ignore undesired behavior, even very aggressive behavior. This is immensely counterintuitive. As a parent you think how could I possibly ignore hitting, kicking, punching biting, my child is going to think these behaviors are okay. However, she told me that by responding to those I was positively rewarding those bears. Disparate I used the aba techniques he immediately went from raging all day to raging 15 minutes

five to six times a day.

[3:24:42 PM]

Aba is also very data driven. We began collecting data by frequency, duration, his actions, my responses, time of day, and environment. This helped us understand and manage what was triggering his rage. And it changed our lives. After three months of data collection, we were -- we understood his triggers. We were managing his triggers and his rage was virtually gone. Today he functions with limited interventions at school and most kids do not know he's autistic. Our second experience with aba, he was -- we've been treating systems of autism since he was nine months old, and he fell off the growth curve. He we were in the eci program and seeing several high dollar medical specialists several times a month because he refused to eat food. He would get sick a lot and he even had a surgery. We finally conceded that he would only drink chocolate milk and eat no other food. Eating seems fairly instinctive, you get hungry and you eat. But aba analyzes activities and puts it into the smallest measurable task and you understand what task is causing the problems. He would only drink milk out of a specific brand in a specific cup with a specific color combination. Through aba I understood how to work to break that habit. We started by changing the color of the cup. Aba also taught me that there are 32 steps to eating. The first is being in the room with food. And we spent a year on that. Using the techniques I learned through the aba therapist, by kindergarten he is able to sit in the cafeteria with other children and eat lunch.

[Buzzer sounding]

>> Now we're at the end of first grade. Earlier this month he went through the lunch line for the first time and got chocolate milk.

[3:26:43 PM]

[Laughter]

>> On Friday, last Friday, he bought and ate cheese pizza from the lunch line. So we've had a considerable success.

[Applause]

>> Charity Bartel.

>> She had to leave.

>> Mayor Adler: Susan pots, Ashley Palermo is on deck. Three minutes.

>> Thank you mayor, councilmembers for having me here. Good afternoon, my name is Susan pots and I'm the executive director of the autism society here in central Texas. Our mission is to improve the lives of all affected by autism. And we do that by providing free information referrals, support, education, advocacy, and recreational opportunities for individuals with autism and their families. We work with hundreds of families each month who are seeking treatment options and support and help navigating autism. Every child with autism is different, as we've heard, and if you've met one child with autism that's it, you've met that one child. With treatment options it's the same. What works for one may not work for another. We do know, however, aba works and the science proves that. Kids that participate in aba continue to show progress throughout the covers their lives. I'm also here as a mom and my son is Luke. He's here. This is Luke. When he was two, we realized that he had some developmental delays that were pretty significant. He started speech occupational therapy, physical therapy, and other early childhood interventions. We didn't start aba at that time because speech was his presenting problem. So we continued to privately pay for those therapies several years. When he was ultimately diagnosed at age five with autism, our pediatrician recommended aba therapy. At which point we said to her, who is going to pay for this, right? Our insurance did not cover that at the time. He's continued to show

progress and just this year at age 11 started aba therapy through bluebonnet trails mhmr.

[3:28:49 PM]

He does two hours every week. He continues to see more progress with him in the past six months than we've seen in any of the treatment options we've had throughout his life. Our insurance does not cover aba. He makes better eye contact. He's beginning to engage in conversations at school. And he's becoming more independent, and we are thrilled to see his successes. We will continue to use aba techniques throughout the course of his life. It has given us hope, allowed to us eat out as a family, which sounds funny, helps us participate fully as community members here in Austin and we are so grateful. We have such hope for his future and it didn't make much aba treatment for this to become possible pour our family. As executive director I speak to many, many families who are looking for better quality of life and come to Austin for this opportunity. We moved here nine years ago from San Diego to have a better quality of life, if you can believe that, and we have found it. We love Austin and feel like Austin is seen as a leader in many of those ways to provide quality of life for families. On behalf of the hundreds of thousands of people in Texas with autism, the thousands of people here in Austin with autism, and the one in 60 city Austin employees who face a autism diagnosis we ask that you vote yes for your families living with autism. Thank you.

>> Mayor Adler: Thank you very much. Ms. Gallo.

>> Gallo: I have a special message for you. So one of the staff people in my office, her son tiger said his best friend was Luke and I was going to be in real trouble if I didn't support what you were asking for.

[Laughter]

>> Thank you very much. I person that.

[Applause]

>> Mayor Adler: Ashley Palermo. Emily Roth certifies on deck.

>> Good afternoon. My name is Ashley Palermo, I'm a citizen of district 8.

[3:30:50 PM]

My husband is an attorney in the law department here at the city of Austin. Our son reed on the screen, out of focus, is 3.5 -- three and a half years old and he's on the autism spectrum weapon in 2013 we moved to Austin because it was evident that reed needed more services than our small town in louisiana could provide. To be frank, reed was not present in our lives. He was an adorable but silent accessory. But we had no idea of his wants and needs. In January of 2014, we discovered spark learning and aba therapy. After trying every therapy under the sun, we finally found a therapy that broke through and we now have insight into reed's needs and his wants. We now know that reed loves swimming, the playground, and he has an undying love for pepa pig. Reed has gone from no words to four word sentences in a year's time. While that may not seem much to you, to us it has been life changing. But our work is not done. The resolution before you in my opinion is a comprise. It still does not meet the needs of our kids, but it's a start. Yesterday many of you held a press conference and you mentioned Austin's values. You mentioned that Austin is a cities that Progressive, that's open, and that it is accepting. Those values are the reason that we moved to Austin. We wanted to be in a city where our precious boy would be accepted and championed and where people that could make a difference would fight to do so. You are those people. You've heard the statistics, 41 states already have insurance mandates to cover aba. We are already behind the curve. Please don't let the city of Austin fall further behind. We encourage you to adopt councilmember Garza's resolution with mayor pro tem tovo's amendments.

[3:32:51 PM]

Thank you for your time today, for considering each of us, for considering each of our precious children, and as one of the previous speakers mentioned, we really hope that none of you are ever in our shoes, but thank you for giving us the time to explain what it's like to be here. Thank you.

[Applause]

>> Tovo: Thank you very much, Ms. Palermo. Our next speaker is Emily rothers and after Ms. Rogers will be Kristin racun.

>> Thank you, my name is Emily Rogers and I'm here to ask you to support councilmember Garza's resolution with councilmember tovo's amendment. I'm the mother of an 8-year-old child with autism. My miscellaneous an attorney in the law department -- miscellaneous an attorney in the law department. I won't spend too much time talking because I think most of what I feel about this issue has already been said but I do want to say that having -- being a person with autism is very challenging and it is something that is -- that a person is going to have to deal with their whole lives and aba is a toolbox that helps a person with autism manage their life. And so I would think -- I would ask you to think about it in terms not just of the cost but of what it means to be a citizen in Austin and be able to participate in community life. I feel like aba has given my daughter the tools to be a member of our community. Thank you.

[Applause]

>> Tovo: Thank you very much, Ms. Rogers. Emily racun. I think you're going to have to correct my pronunciation, and after will be Ryan Lynch.

>> Good afternoon, councilmembers, my name is Kristin racun, I'm the owner and director of spark learning aba learning center for children with developmental disabilities, like autism here in central Texas and have been providing therapy for ten years.

[3:34:55 PM]

I'd like to explanation the authorization and care process required by insurance companies that insurances its electrician masssy and controls its costs through checks and balances and give you a real lime example. As for the organization and treatment protests, clients come to us for services because a diagnosis was provided by a developmental pediatrician or a pediatric neurologist and a prescription for aba therapy was given. That diagnosis and prescription are required when we request a service authorization from the insurance provider. We then assess the capabilities and needs of a child 234 an assessment, then read a treatment plan that includes specific and measurable goals. Before services begin we provide a copy of the treatment plan to the insurance company and complete a peer to peer review with a licensed practitioner employed by the insurance provider. As services are provided, we take extensive data on the child's progress, constantly monitoring progress and adjusting the treatment plan as needed. The insurance provider then reviews the authorization every six months, which may include reviewing the treatment plan again and additional peer reviews. These reviews continue throughout treatment. As for the long-term impact on a child's life here is a real life example of one of my clients and the basket that aba had on his life. For Paul going to school was not an option. He was aggressive toward others, banged, bit, scratched, screamed yelled daily for hours. He spoke one word phrases. Paul was kicked out of multiple day cares. Paul was receiving speech not because it was available and paid for by insurance. After two years of aba Paul now attend a public school, has friends, he can have a full conversation and ask questions about the world around him. Yes, Paul still has his challenging moments like any 5-year-old but Paul will have a life and future because of the aba therapy that he received at a young age. Many begin with zero verbal communication, zero emotional affect and zero self-help schools, then go on to public schools, support themselves without the since of an aide and

go on to participate and contribute to our community.

[3:37:04 PM]

Thank you for your time and consideration.

>> Tovo: Thank you.

[Applause]

>> Tovo: Ryan lynch. After Ryan lynch will be Ann hart.

>> Hello, councilmembers. Thank you for having me. My name is Ryan lynch, I'm the husband of Kristin racun actually of spark learning, also a resident of Austin, council district and then future to a new little girl as well. So I find myself surprisingly emotional towards what we're theory talk about. While emotional I'm here to talk about the Numbers too. The towers Watkins figures you were presented included an average assumed direct cost model of \$50,000 per client. And when I saw that presentation I think at the last council meeting, I was a little shocked and wanted to look into some of spark learning's own Numbers so that you had a real life example of a provider in the area here in central Austin. United's average per client cost model was \$21,600 so obviously towers watt sons was 130% increase, \$50,000 quote. I found that he to be a little extreme, little exaggerated. So I looked at our client base, and at spark the average client incurs -- insurance company, this is all inclusive total cost, incurs \$14,800, includes their cost share of the deductiblable, coinsurance, copays and the additional dependent fee written into the policies. That's 70% less than towers Watson estimates and 30% less than united healthcare. Actually a little higher than the Austin ISD, but I think that as you look at these Numbers, we get further and further away from \$50,000 a year as your estimated costs per client and to a much more reasonable number that, when included in the cost of these policies, is manageable by your total policy holders.

[3:39:16 PM]

So with that said, I please ask you to support the resolution to include aba benefits and, mayor pro tem's amendment. Thank you forever your time.

>> Tovo: Thank you very much for being here.

[Applause]

>> Tovo: Mr. Lynch, rather. Ann hart.

>> I live in Mr. Zimmerman's district and you can come any time to meet my 30-year-old, 30 in July if you want do learn more about autism and life with autism, come on over, we live next to mountain view park. I can tell new my time in the autism world, which started in 1988, I'm a very old lady of this group of autism constituents, we did not know much about aba, so my son didn't get it because it was still considered experimental, highly controversial. That's not true anymore. We also were just coming out of a generation when mothers were blamed for being too cold with their children, and that's why their children had autism, and we know that's not true anymore as well. Now we know for sure it's a neurological disorder, although there's still many, many questions about autism. And I'm the one at the autism society because I'm the old lady, I am the one who take the information and referral questions as a volunteer. And I have to talk to the moms who, you know, thought they had a perfect baby, just like I did, and somewhere between zero and three usually, sometimes it's later, but usually sometime -- somewhere between zero and three years old they find out that the baby they had is not really the child that they have because suddenly, you know, it's not something that's identified in the hospital. So then they go through this loss of sudden -- loss and questions. I mean, I could go back to that day, you know, Halloween of 1988 where I had just had a baby and I found out my 3-year-old had autism.

[3:41:20 PM]

I mean, it's very, very hard. And then when I am -- have to be the one to say, well, let's see how we're going to navigate this, and I know you have a prescription from your doctor that you need aba, but I have to ask you some really personal questions, like, you know, what kind of insurance do you have? How much money do you have? You know, when they find out that their child's future is dependent on their insurance, their mind is kind of blown away because -- but my doctor said my child needs this. I once had one of my favorite moms said, Ann, if Jackson had aides, they'd be all over me, wouldn't Noah what to do, which maybe AIDS is a bad example. If he had cancer or even characteristic health conditions like cystic fibrose cyst or diabetes, we don't question those prescriptions. Juvenile diabetes, you need insulin, you get it. You know, that's where, you know, if you're on the autism side, that's where we are. Our children have characteristic chronic hedgeconditions, my son is severely impaired, we have no way of knowing how he'd operate if he had had aba, but, you know, so to take a family in that situation --

[buzzer sounding]

>> -- And not help them is really hard to fathom from where I sit, you know, on the phone everyday. So please support the resolution. Thanks. If you want to see what John's siblings look like, here they are. I don't know if you can see.

[Applause]

>> Tovo: Thank you, Ms. Hart.

>> Zimmerman: Mayor pro tem.

>> Tovo: Yes, councilmember Zimmerman, did you have a question for the speaker, councilmember?

>> Zimmerman: I did. Thank you for coming down. Love to have district 6 people such a long ways. Hard to get them down here. We do have a local district office by the way.

[3:43:20 PM]

I guess my question or concern is, you know, we've heard a lot about economic segregation in the city, and there are a number of conditions I'm sure that -- a lot has been made about how our council really doesn't know snig we don't, we don't really though these treatments, but we also don't know about dozens of other conditions right, issues, problems.

>> Right.

>> Zimmerman: And dozens of others, okay? So when we hear about people talking about the economic divide, what happens, you know, we vote this in, and now city of Austin employees have another healthcare benefit, what about the rest of the community? We have a lot of people in the city that are being driven out by the high cost of taxes and high cost six living, so once again we create silos of people that have a benefit for their autistic kids and those who don't. I don't know how to deal with that in my district.

>> We're already dealing with that in the state. I mean, Texas actually has one of the strongest autism mandates -- insurance mandates in the country, but it's only for -- you know, but self-funded -- I mean, that's how you're not having to pay for it so far, is because of the self-funded policy. Those divides are true. We're not getting rid of those divides in this one resolution but we can help some children.

>> Zimmerman: We can but we create a divide for others that we're not helping and can't afford.

>> I guess which side of the divide would you rather be?

[Applause]

>> You know, I could sleep at night like, you know, say my job with the autism society, which is unpaid, hard to say if it's a job, but my calling, my vocation, I can't help every family. You know, I know for every mom that finds the autism society there's probably ten more navigating alone but at least I can sleep at

night knowing, well, I helped that one mom, that one family. And I would rather be helping the one family than not helping anybody.

[3:45:24 PM]

>> Zimmerman: Because if -- when I vote for this, all my other district 6 constituents who do not get the benefit are going to say, hey, councilmember, where's my benefit? How do I answer them?

>> Then you say you do what all these moms did and go to your employer -- I mean, that's what we tell moms every day, you have to go to your own H.R. Department and it may take you a long time, advocate, go to the legislator like we do all the time, which is how we got the autism mandate to begin with. That's what the autism society has been doing for 50 years, you know, some of that is before my time, just for the record, but --

[laughter]

>> But, you know, our kids, the generation before me as a mom, the kids didn't get to go to public school. You know? I mean, at least I entered the autism world knowing my son could go to school. We're talking about systemic changes, but we can only all in our own time, in our own world, in our own place impact those systems, you know, that -- you know, where we are, where we are, and I don't see how you could not do what you could -- what you were able to do.

>> Zimmerman: We agree that you're not that old. The problem is much older than we are.

>> Right.

>> Zimmerman: Thank you.

>> Okay. Thanks.

[Applause]

>> Tovo: Thank you. And Mr. Cassaday is our last speaker, I believe. We had amber Lynn signed up but she donated her time.

>> Gasp, mayor pro tem, council. I'm sure you're wondering where why is the Austin police association present talking about this issue. I'll tell you why. About two years ago I responded to an officer-involved shooting and it was Lisa Whitted's husband who unfortunately had to take a citizen of Austin's life. You know, not only is it a horrific incident for the family but the person that's been killed but for the officers that had to make that decision. And unfortunately for this officer, he had many things going on in his life.

[3:47:25 PM]

He had not only that tragic incident to deal with where he should be allowed time to decompress, have time off and get his life back and his affairs back into in order, unfortunately he had to start working harder, started having to double down on trying to work overtime when the city, whenever he could, to pay for aba for his child. No family should have to do that. So I would encourage you today to pass this resolution and, you know, I appreciate councilmember Zimmerman for asking the tough questions because you always need that person to ask the tough questions on how much it's going to cost and I do appreciate that. But, you know, a lot of the cost is passed down to the employees, and it's not all passed onto the taxpayers. So that's one way to look at it. But I really do appreciate councilmember Garza for taking an interest in this, and this T just means a lot to the family and all the families in the city of Austin who have kids that have autism. Thank you.

[Applause]

>> Tovo: Council, that is our last speaker, I believe. It doesn't look like we have any others. We do have a motion on the floor and a second. Councilmember Garza, would you like to speak to your motion or are there questions?

>> Zimmerman: Point of order if I could or just an inquiry. I'm a little confused about which motion or which copy of the resolution is on the table. So was the Taiwan was in our -- that's in our materials here, in our booklet, is that the one that is now on the floor and seconded?

>> Tovo: That's correct.

>> Zimmerman: Thank you.

>> Tovo: Sorry to complicate things. I just handed down a copy of a suggested amendment, and I believe we have a couple others that have been disability distributed but nobody has made those as motions, that's correct.

[3:49:29 PM]

Councilmember Garza, did you want to speak to your motion?

>> Garza: Sure, I'll kick this off since it's my item. I suspect there's going to be many amendments coming, but when I was approached by one of the parents, one of the parents with children with autism, I didn't know anything about -- I mean, I knew very little about autism. I knew very little about aba. And after meeting with my staff and learning more, I just realized that this is something that the city needed to cover, and so we worked with them several meetings working with the advocates and trying to come up with something that addressed their needs but also to take into consideration the cost. Contrary to some people's belief, we do care about costs.

[Laughter]

>> Garza: And when I heard the stories, you know, during the health and human services committee meetings about how this has changed parents' lives and how they've seen their children just come alive with this and, you know -- and about how simple things like an ear infection would turn into a visit to the emergency room because the child wasn't able to communicate their needs and so we went from something that could have been solved at the doctor's office to something that needed -- now a child is in the emergency room. The parents have spoken to costs. I don't want to -- the one that sticks out most to me is that even at the highest projected level -- and there's proof that, you know, these project -- a lot of these projections are 500 to 1000%, there's a difference in what's projected and what's actual. My item doesn't -- it doesn't really -- it says that we're going to discuss this again when we get to the budget. We're going to see how we're going to implement this when we get to the budget.

[3:51:31 PM]

We talk a lot about incorporate evening wit and affordability on this council and different tools that we have available to Dallas. This is one of those tools. We can have a profound impact on -- there's estimates of it affects 13 children, even if that goes up to 30 children, this is an opportunity for us to have a profound concrete effect on those families in -- and we can look at that as an equity issue and affordability issue because when parents have to pay hundreds of dollars for this coverage that affects affordability. If parents have to refinance their mortgage to be able to pay this cost, that affects the affordability map about families who can't, you know, refinance their mortgage? What happens to them? And so here's an opportunity we have to affect that, to change people's lives. With take cost into effect and it is minimal, it's a minimal cost to our city healthcare plan. So I respectfully ask and I know we'll hear amendments but I respectfully ask my colleagues to support this item and I respectfully ask our city manager to include this in the budget forecast.

>> Tovo: Thank you, councilmember Garza. Councilmember kitchen.

>> Kitchen: I would just also like emlike to emphasize the cost aspect and we don't even have any Numbers but as councilmember Garza gave us a clear example of how this saves money. So we should not just be looking at this from the lens of this might cost several hundred thousand dollars because it's

going to save money too. It's going to keep kids out of the emergency room, and that's the most expensive kind of care, is when a child ends up in the emergency room. So we have to understand that and remember that. And the other aspect of this is that the parents pay part of this cost.

[3:53:32 PM]

That's the way the premium works for coverage of children under our health plan. So I think that -- the last thing would I simply say is that I don't think we should get too caught up in the costs right now because what this -- what this resolution does is it includes this benefit in the -- in the coverage package. It doesn't approve the budget. That all comes back to us later. We'll be looking at the cost of this benefit as well as all the other costs that are part of our benefit package, as well as all the other costs that are part of our budget when we approve the budget. So I think it's completely appropriate to make a policy statement at this point, which is that as it states in this resolution, is that this should be covered. This is an item that should be covered for our city employees.

>> Tovo: Additional comments? Councilmember Gallo.

>> Gallo: Oops. Excuse me. I just want to say thank you to the parents and hope that I make it through this. I think people that don't know the struggles that special need parents or that the parents of special need children face on an hourly basis, a daily basis, just don't understand. And so I really do applaud you. I applaud that you've taken time away from your incredibly busy, crazy days to come down and talk to us. I understand that. My step daughter has a down's and diabetic child and my sister just lost her child, who was 29 years old, who was diagnosed bipolar about one years ago so I know the struggles that parents go through, and please know as we talk about this and you get comments from us that we so appreciate what you're going through and the struggles you go through and thank you for being here and reminding us again and again that people's lives are not simple.

[3:55:37 PM]

And that we need to be very sensitive to these that are not as lucky as the rest of us when we have healthy children. So thank you for being here.

>> Tovo: Thank you for those comments. Councilmember Houston.

>> Houston: Mayor pro tem tovo, would you tell us about your resolution.

>> Tovo: Sure. I'd be happy to. I'm unclear as to what to do if the mayor is not back in time to talk about miss amendment so that giffords us a little time. I did pass out an amendment, suggested amendment on the dais. I am -- let me start by saying I'm really very comfortable with the resolution as it was posted in backup but in hearing some of the dialogue at the work session I thought that this might offer some additional -- some additional direction to the city manager and make sure that as we consider the benefits within the budget, within the base budget, that there's no doubt that the city manager will also be presenting us with some additional options to consider if our human resources and the city manager believes it's appropriate to consider some options other than what's been included within the base budget. So we've talked about that and talked about -- we talked about it at our health and human services -- health and human resources committee, as well as our work session and I believe that was the intention of staff, but this will just make sure that it happens, that as we begin to discuss the budget we'll also have additional other options to consider. And so I would make thattality -- I'll turn over the chair for the moment to councilmember pool and make that as a formal amendment if the maker of the resolution is amenable to it.

>> Zimmerman: Mayor pro tem, is this the yellow copy that we have here that has your be it further resolved?

>> Tovo: It is.

>> Zimmerman: Can I put that on the overhead now so we can all see?

[3:57:40 PM]

>> Tovo: That would be super. The only additional language would be the city manager is [indiscernible] Recommended budget on any additional option that's the city council might consider.

>> Houston: Can I ask a clarification. So this is in addition, not instead of the existing resolution?

>> Tovo: Absolutely. The original -- the resolution as posted by councilmember Garza and the other sponsors, of which I'm one, stands as is. This would just be in addition to make sure that if the city manager feels that other options are appropriate to present to the council, that he'll do so at that time.

>> Pool: I guess I have the gavel here. Are there -- have a second?

>> I'll second.

>> Pool: Seconded by councilmember kitchen with backup, councilmember Zimmerman. Any debate? Councilmember Garza?

>> Garza: I'll justed that I'm fine with that, and I think it -- I'll just add that I'm fine with that and I think it does capture some of the concerns of the health and human services committee and I think it also captures the mayor posted an amendment on the message board and it seems to capture that as well. So I'm fine with this amendment.

>> Pool: Any other discussion? Members, are you ready to vote? On this amendment?

>> Zimmerman: This is the amendment on the screen. I'd like to call the question on it, if we could.

>> Pool: All right. All in favor of the amendment language that was offered by mayor pro tem tovo to councilmember Garza's substitute motion? And let's see. It looks like it is unanimous on the dais.

[3:59:41 PM]

Mayor, are you voting? We can --

>> Mayor Adler: I vote yes.

>> Pool: Okay. That's unanimous on the dais. And I will turn the gavel back over to the mayor.

>> Mayor Adler: Okay. I apologize for having missed the final comments.

>> Tovo: Mayor, you haven't actually. We have a motion on the table from councilmember Garza and a second from someone else. And --

>> Mayor Adler: This amendment has been added? Geo.

>> Tovo: We just add the amendment and that's where we are.

>> Mayor Adler: Got you. So we're now back on Garza's substitute motion as amended. Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I'd like to propose another potential amendment that -- sorry, I forgot to put -- identify it. It's a white piece of paper that says item 6. It looks like it's up there now. This is a very simple but something that would need some discussion. The underlying point in the middle, it says with the cost 100% financed by the employee choosing this additional coverage. So I offer that as an additional -- an amendment with additional language. See if there's a second.

>> Mayor Adler: There's an amendment to the substitute to provide that the cost be 100% financed by the employees. Is there a second to that amendment?

>> Troxclair: I have a question for staff in regards to this. Would I need to second the amendment to be able to ask the question.

>> Mayor Adler: To debate it would you but if you have a question, kind of like as a point of information, I'll allow that.

>> Troxclair: I have a point of information for our human resources staff. This is just for my own general healthcare knowledge. Do we have -- when we have something like this where 100% is financed by the

employee, I'm sure that the cost of that differs greatly, depending on the type of coverage that weaver talking about and the number of people in the pool.

[4:01:48 PM]

Do you have any idea of what kind of cost this would be for the employees who choose to -- who would choose to utilize the service under this amendment?

>> Mark Washington, human resources director. So the first response would be the current state of non-coverage now, as some of the parents testified to earlier, what the costs would be for the treatment without any insurance coverage. The benefit for having it under the insurance plan is the healthcare provider could negotiate a discounted rate for all of the other providers that are providing the therapy, which would -- may be lower than the pure market rate. So I don't know what that actual cost would be. It would depend on that -- as you heard the variability of the hours, the severity of the diagnosis, but it would -- the only benefit there would be, it may be a discount rate because it's negotiated with a group of providers by insurance company versus an individual parent going directly to a provider.

>> Troxclair: I guess I would think in this case, based on the number of employees who we project to utilize aba coverage, it would still seem like this would be a significant expense because even at a discount.

>> Absolutely.

>> Troxclair: It's a small pool.

>> Right, right.

>> Troxclair: So there's not as am --

>> Absolutely. If the risk pool was only the employees that potentially need it we're talking between 13 and 48 employees versus 13,000 employees in another group of retirees.

>> Troxclair: Probably several thousand dollars.

>> It would be a significant cost to employees.

>> Troxclair: Thank you.

>> Mayor Adler: We have a -- an amendment proposed. Is there a second to the amendment from Mr. Zimmerman?

[4:03:57 PM]

The amendment dies for lack of second. I will now -- we're now continuing on the substitute motion as amended. Is there any further discussion? Ms. Houston.

>> Houston: Mayor, may I ask Mr. Washington a question?

>> Mayor Adler: Yes.

>> Houston: So the cost for the service, the inclusion would be borne across all of the city retirees and employees or is it -- is the cost borne by those with dependents?

>> It would be a cost to the plan. We would rate the cost based on the employees and retirees with dependent coverage. So employees who get the insurance benefit at no cost, since they have no benefit, no dependants, they would not share in it. It would only be employees and retirees with dependents, which we would spread the cost across.

>> Mayor Adler: Empties Houston, the amendment added by Ms. Tovo, does that incorporate the intent of the committee to get various spending or plan levels?

>> Houston: Yes.

>> Mayor Adler: Any further discussion on this matter? Mr. Casar.

>> Casar: Very briefly, seems to me I'm very pleased to see that I think a majority of the council is very supportive of this and I know that advocacy work is very hard so I just want to take a moment and thank

both Lisa and Jackie for having come by my office and all the families that have worked so hard on this for years. I know you don't do it for the recognition, but I just wanted to recognize you for your very hard work because I know it's not easy to do.

[Applause]

>> Mayor Adler: Any further discussion? Ms. Tovo, and then Mr. Zimmerman.

>> Tovo: I hate to duplicate comments but I wanted to thank the parents as well and the therapist who's took their time to really talk -- it couldn't have been easy to share very specific, detailed, personal information but really I want to tell you it's been tremendously effective in helping us assess the value of aba therapy.

[4:06:10 PM]

So thank you for sharing those very specific examples of how this therapy has impacted the lives of the children you work with or your children in your family and the ways in which it has, as several of you said, allowed them to become full participating citizens within their community. So thank you very much.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I just wanted to make note again once more of the e-mail that had come in from the Austin firefighters association. Somewhere I saw a listing of organizations that were in support generally of the idea but that lacked this additional piece of information regarding how it would be financed, how it would be paid for. So, again, the information says that the afa recommends the cost of the benefit is 100% financed by the employee and it goes on to say this action will make it cost neutral to the city budget. And I think there will be no question that if we could provide any benefit to not have a direct cost to the people who will not benefit from it, we would be eager to add that kind of benefit to our health plan. So if can he would use the buying power of 12,000 employees to add benefits, but there were no direct additional costs to the taxpayers, everybody would be in support of that, I would think, including me. But I guess since that's not tied into the item here, then I'm not -- I don't know what the cost is. So I'll probably be abstaining.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: I just want to provide some kind of comment on the concern that you're raising, councilmember Zimmerman. What's inherent in this resolution is the ability for the city to come back with different options, and that's what the amendment that councilmember tovo did. So there are other ways to consider how the city can share in the costs with the parents than going as far as you had suggested.

[4:08:21 PM]

So, for example, I think Mr. Hockenyos had talked about how the city right now, parents share in the cost with the 6,000 that they pay every year. So I think that when we had this discussion as part of the budget, there will be the opportunity to consider kind of the concerns that you have. So it's just that, you know, when you're talking about health coverage if you try to break out each benefit and have people pay for their own benefit, then you just -- you've done away with the whole purpose of insurance. Which is to spread the costs across a pool. Anyway --

>> Mayor Adler: Any further comment on the substitute as amended? Hearing none, all in favor, please raise your hands. Those opposed? Those abstaining. It is 10-0-1, Mr. Zimmerman abstaining.

[Applause] Next item on the agenda will be items -- I think we're now seven and eight. Is staff present? Depression take your time. Greg, take your time. I know when we jump around on the schedule here we catch people close by but not in the room and that's okay.

>> Hi, mayor, council, Greg Guernsey, planning and zoning department. Item 7 and 8, item 7 is case npa-2014-0017.01, this is an amendment in the crestview Wooten planning area, 2,000 Justin lane, 2009 Cullen avenue.

[4:10:24 PM]

The change is to allow a change to the future land use map to designate the property to mixed excuse office land use. The zoning case which is item 8, case c14-2014-0036, that same property, is to zone the property to general office, mixed use, conditional overlay, neighborhood plan or gomucomp combined district zoning. This was actually considered by the last contra Costa and was approved by them on a 4-2 vote for both the neighborhood plan amendment and for the zoning change. I'll note on the zoning change itself there's a valid petition around 34%, however, both of these items staff would only offer for second reading only today. There are some covenants that are required that the owner has not yet signed, so we would only consider second reading at the most today. As I said, there is a valid petition, the valid petition would require at third reading a majority vote of nine out of 11 to consider this item. So let me go into a little bit of detail on the neighborhood plan amendments. The public hearings are both closed on these items because the public hearing was heard by the previous council. But the neighborhood plan amendment --

>> Mayor Adler: Mr. Guernsey, quick question. At the time of the earlier council vote, was there a valid petition?

>> I'm not sure, mayor, at that time.

>> Mayor Adler: Okay.

>> I believe was. I think it was lower, though, over 20. But not the 34 that we have today.

[4:12:24 PM]

>> Mayor Adler: Okay. And had there been the 34 that we have today, what would the vote have been required to pass?

>> Back then it would have been only six out of seven.

>> Mayor Adler: It would have been -- but it would have been six out of seven?

>> That's right.

>> Mayor Adler: So the 4-2 vote taken before would not have overcome the battle pet in addition.

>> That's correct.

>> Mayor Adler: Please continue.

>> There's one councilmember that was -- must have been off the dais because of the 4-2 vote.

>> Mayor Adler: Thank you.

>> The property that weaver talking about is a 2.2-acre property. It is currently used as a religious assembly use. The proposed use of the property for the future land use map would allow a MIX of residential and office uses. The actual use of the property was suggested as possibly being an office use. The planning commission on this case health and human services as it came forward did make a recommendation to grant the momuco on the zoning. It was a 4-4-1 vote. They made another motion to deny, which was a gomuco mote, 3-5-1 but in the end they granted the lo-mu-co -- mu -- excuse me, mp zoning on a 6-2 vote. So you had split votes at commission. Split votes at council. There is considerable neighborhood opposition. And I might just pause. If you'd like to hear from the applicant on the case you could do that. Maybe a representative of the neighborhood if you wanted to get a little background.

[4:14:26 PM]

Technically the public hearing is closed on these items. But as I said before, staff would only suggest that both seven and eight be limited only to second reading because we do not have all the documents signed.

>> Mayor.

>> Mayor Adler: What happens procedurally if there's not a vote present to overrule a valid petition option? And you don't get to that level of a vote? Does it continue on or does it die?

>> On second reading, you don't have sufficient vote to override the battle petition, the vote -- balance lot petition, the case would just go to third reading. It has to have sufficient votes by third reading.

>> Mayor Adler: Does it require majority of the votes to move to third reading?

>> It requires -- yes.

>> Mayor Adler: Okay.

>> As any other council action would require.

>> Pool: Mayor, my understanding is that if a case with a balance lot petition receives nine votes against it on second reading then it is over for second and third reading. Is that --

>> Mayor Adler: In fact -- if there's a recommendation to deny it passes to your simple majority would you normally have, the case would be denied.

>> Mayor Adler: If there are not six votes for this to move forward to third reading, then it will die?

>> Right.

>> Mayor Adler: Is there a motion from the dais as concerns this item 7 and 8?

>> Pool: I will move, this is in district 7 and I would move to deny this application.

>> Mayor Adler: I'm sorry?

[4:16:27 PM]

>> Do we even need to do that. Doesn't it need a vote to move forward as opposed to a vote to deny? If nobody votes to move it forward it's dead, right?

>> Mayor Adler: If there's not a vote to deny it or a vote to pass that fails, then there's no action taken. I would imagine that it could be reset on to the agenda because there's no action taken?

>> No. If there is no action to move the item forward, it would die on its own accord. For clarity, staff would usually ask that council take an action to make a motion one way or another, in this case if there's a second to the denial and that passes, then the case is denied.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: But if you -- okay. From a voting standpoint if you make a motion to deny you need six votes to deny, okay? If you fail to make a motion to pass it, then it doesn't go forward. You're requiring a higher standard to deny if you have a motion to deny.

>> And then we would wait and see if there is a new motion and lacking another motion and if you move to the next item, staff would assume the item is denied.

>> Kitchen: We don't have to go through all that.

>> Pool: Mayor, I'm going to withdraw my motion.

>> Mayor Adler: Is there a motion on this item 7 and 8? Is there a motion? What we were told is if there is no motion -- so is there a motion on item 7 and 8? Not hearing a motion we're then going to proceed to the next item. We will now proceed to the next item.

>> So the next item on your agenda --

[applause]

>> Mayor Adler: I think is listen 12.

>> Correct, npa-2014-0009.01, this is located within the central east Austin neighborhood planning area, 908 east 15th street, 808 east 16th street, this is a change to the centrallesse Austin plan to change it to a mixed land use.

[4:18:47 PM]

The associated zoning case is item 12, c14-2015-00067 5 six for the same properties, to zone the property to community commercial, mixed use, conditional overlay, neighborhood plan, grmucomp combined zoning. The planning commission recommendation was to grant family residence neighborhood plan or sf3 combined district zoning and historic neighborhood plan combined district zoning. The applicant has asked for a postponement. This is their first request. Although there's certainly a disagreement, I understand, on a postponement date, the applicant has offered to agree a postponement, I believe, of 64 or June 4, June 11, and September 10. Environmental today I understand the neighborhood was possibly in agreement to postpone when we -- to may 21 and I know during the work session I know there was agreement to postpone but I don't particularly know which day the parties might betology postpone to so we might want to hear from the applicant and the neighborhood to --

>> Mayor Adler: And we couldn't have taken any action last time so we didn't, at the work session. So we have 12 speakers that have signed up to speak. Ms. Houston.

>> Houston: Mayor, I made an error on Tuesday at the work session. The neighborhood was not in agreement with the postponement so June -- to June listen whatever the other one was. That was my error.

>> Mayor Adler: Okay. So as I understand before we go to public comment, would this be the first postponement requested by the applicant?

[4:20:49 PM]

>> It would be.

>> Mayor Adler: Do we have a custom that we have with respect to first requests for postponements?

>> Normally, there's -- council would honor a postponement by the applicant and a postponement either from a neighborhood organization or adjacent property owner and grant that request. You may recall this was actually an item that staff had asked for the last postponement because we had done what's called a dual notification in order to save money and we neglected to tell the applicant that we had postponed it to a particular day. And so that kind of brings us to today for possible consideration, which I understand they have asked for a postponement.

>> Mayor Adler: Okay. 12 -- go ahead, Ms. Houston.

>> Houston: How many postponements has this zoning case had altogether.

>> As I understand staff asked for the one postponement but the applicant, this would be their first request. And I guess if the neighborhood is asking for one too, it might be their first request, but the applicant has not yet asked for one. As I said I spoke to both parties and there seems to be a disagreement regarding a postponement date.

>> Mayor Adler: All right. So we have nine speakers. 36 minutes worth of time. First speaker we'll go ahead and give --

>> Would you like to consider the postponement first and hear from each side?

>> Mayor Adler: I think we'll hear the people speak to the postponement issue.

>> Okay.

>> Mayor Adler: So Luisa, is Tracey witty here, is Bruce Sheehan here?

>> He's on his way.

>> Mayor Adler: That's not going to count, unless you want to wait to speak.

>> Mayor, just so you know, the applicant's representative didn't sign in to speak to this case so he's present, peter.

[4:22:54 PM]

>> Mayor Adler: We'll give him a chance to speak later if he wants to speak. Bruce -- Steven Macon.

>> He's out in the lobby.

>> Mayor Adler: Okay. And Charles rexon.

>> Here.

>> Mayor Adler: So you can go for nine minutes. If you want to start now or we can go to the next person or you might -- where you might pick up those other two people and speak for 15. What's your election?

>> I won't need nine minutes but I'll speak now.

>> Mayor Adler: All right, nine minutes.

>> I'm just addressing the postponement. Thank you. Mayor and mayor pro tem and council, my name is lousa

[indiscernible], I'm the sec of the suite hill neighbor sobers. The neighborhood and the central east planning team would like to move forward today on this case. Barring that possibility, I respectfully request that since this appears to be just a scheduling conflict for the applicant, we keep it simple and hear this in a timely manner at next week's council meeting on may 21. Today marks the second postponement on this case that benefits the applicant. And it's worth noting on April 16, staff and you agreed that may 14 was enough time for the applicant to recover from the planning commission recommendation for denial on this case. The neighborhood association has been working on this case since August of 2013 and during that time we have seen and not to your eyes but to ours, we have seen multiple delays and postponements at the various boards and commissions and now at council. The neighbors and planning team representatives have shown up here, ready to go, aside from a few of my chickens who may have escaped the coop, but they hopefully will be back in a moment. The neighbors and planning team representatives have taken time away from their families, only to hear another postponement request. Today folks have taken even their vacation time to be here on the set hearing date, including my husband, which I'm not very happy about.

[4:24:59 PM]

I would like to notify the council that neither Mr. Peoples nor his agents have contacted the neighborhood since January of this year when they filed their zoning application and have not utilized the past weeks and weeks of postponement periods to work with the neighborhood or restart conversations. It seems this case has gotten bogged down with multiple delays and frustrating our attempts to be heard in a timely fashion. I would also request that the applicant work with the neighborhood on this date that we're asking for, may 21 if today is not possible and arrange their exiles ton here next week -- to be here next week. I had mentioned a September 10 date as well but that is a far, far distant third choice for us. Our first choice of course is today. Second choice is next week, may 21, and a distant third is September ten. That seems like a very long time from now and too long to be heard in a timely fashion. Thank you very much for your attention. I appreciate it.

>> Mayor Adler: Thank you. Next speaker is Christine herana.

>> If I may just ask you a question.

>> Mayor Adler: Sure.

>> I believe what -- my understanding of things is that we discuss and decide whether the case is being heard because all of those speakers signed up today in case we went forward.

>> Mayor Adler: I'll go ahead.

>> So it's a presentation of the -- all of those speakers are here to present for the case.

>> Mayor Adler: And I understand that so I'll do that. We'll entertain public comment here on the question to postpone. If people could limit their time and if the motion to postpone does not pass, then I'll give people an opportunity to speak to the merits.

>> I am the only person speaking to postponement at this time.

>> Mayor Adler: Okay. And the -- can the applicant come up and speak to us with regard to postponement?

>> Mayor, council, my name is peter [indiscernible] And I represent west peoples who is the owner of this property.

[4:27:07 PM]

Mr. Peoples can't attend today because he's chairman of the board of range regents at Texas Lutheran university and they have a board of regents meeting today. What we have been doing is working with city staff and also meeting with councilmember Houston's office regarding new ideas of what we can do on this property. What we're trying to do is accomplish the council's goal of providing reasonably priced housing close to Austin. We're trying to recognize some of the neighborhood's concerns and we're also trying to achieve Mr. Peoples' goals. I requested the postponement to June 11. I understand that that is not convenient for the neighborhood association because of other commitments. We, Mr. Peoples, and Mr. Blakeer have family commitments and are traveling on May 21 so we can't do that date as well for the same reasons. We are agreeable to the September 10 date that the neighborhood has offered and we're still willing to make that an applicant request for postponement. This is our first postponement request on this matter. A lot of the delays that have occurred were because a historic zoning was initiated on Mr. Peoples' property by the neighborhood association. So that's what led to some of the delays that you've heard about today. But our request is that you grant the postponement, if not to June 11, we request to September 10. It can still be an applicant's postponement. I'm happy to answer any questions.

>> Houston: Mayor.

>> Mayor Adler: Ms. Houston.

>> Houston: Sir, were you hear when you said the neighborhood said June 11 was not a good day for them?

>> That's correct. I did understand that and we're willing to work with them for the same reasons that they can't do June 11, we can't do May 21 or today. And that's why I'm asking for September 10, which seems to work with their schedule.

[4:29:08 PM]

And it can still be an applicant's postponement so we'll still make it at

>> Mayor Adler: Ms. Gallo.

>> Gallo: I just -- I just hope that as we talk about postponements, we still continue to try to schedule zoning cases on zoning council days, just because it seems to help with the efficiency of staff, if they're not spread out over all our calendar days. So I just hope we remember that we've got a specific day each month for zoning, so thank you.

>> Mayor Adler: Is September 10th a zoning day?

>> Yes.

>> Mayor Adler: Continue -- any further discussion?

>> Houston: Yes, sir. I don't think the neighborhood said September the 10th. They said the 11th. It was their third option, but it was not the 10th. I'm not sure where that came from.

>> Mayor Adler: Yes. Please.

>> Thank you. Councilmember, our first choice, of course, is to move forward today. Our second choice is may 21st. That would be next week. A very, very far distant third is September 10th, and that is because of council's summer, but that is three months from now so it is a long distance away.

>> Mayor Adler: I understand.

>> Houston: Thank you so much for the clarification. One of the other things, members, we had -- it was scheduled on March the 5th, it was postponed by staff to April 16th. On April 16th, it was postponed till today, and this would be the third postponement. Meanwhile, we're wearing our citizens down. They're having to prep every time to come to these meetings, not only this meeting, but the planning commission meeting and the other commissions that they have to go to, and yet there's been no communications with the neighborhoods in those ensuing times. And so I'm not clear why we need a postponement, what that would do, except the applicant would not be here, but his agent is here.

[4:31:11 PM]

>> Mayor?

>> Mayor Adler: Yes, Ms. Pool.

>> Pool: I'm comfortable with moving forward on the waller at add Swede hill case.

>> Mayor Adler: Mr. Casar.

>> Casar: I wanted to put out there, we did have some discussion about calling an additional meeting in may and I concur with councilmember Gallo's point that we want to keep things on zoning days, but since it sounded like the first option from the neighborhood was to move it to next week because it is soon, but the applicant is not available next week. I just wonder if that is an option on the table, for us to consider or not.

>> Mayor Adler: Well, let's check that out. What is the last Thursday in may? 28th? Can you do the 28th?

>> I can do the 28th. I need to check with my client. He's not here. But I do know that today and the 21st were the problems.

>> Mayor Adler: Can you do the 28th?

>> I don't believe that's a problem, but I understand the city council meeting has been cancelled for that day.

>> Mayor Adler: We're setting one back up again, probably.

>> Excellent. Thank you.

>> Mayor Adler: On a different matter, but we can see -- can you call him at his office?

>> I can, yeah.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I guess I need to be reminded probably from Mr. Guernsey or Mr. Rusthoven, the first couple of postponements, were those applicant requests?

>> The first postponement is because of [inaudible] That we were still going to planning commission. The second postponement for one that we did discuss at the last meeting was requested by the staff because we dual notified the case, and then we did not inform the applicant of the dual notification, so the notification was for the last meeting. So when the case went to planning commission and the applicant said, when are we going to council, and I informed him, he was not aware of that fact, and it was sooner than he wanted to go, so I felt we were obligated to ask for a postponement because we failed to communicate with him properly. So ours was the last request, and the one before that was --

[4:33:18 PM]

>> Tovo: Thanks. I know Mr. Guernsey or you explained that a few minutes ago. I'm sorry to have missed that detail. So this would be the first. The first was a scheduling, more or less, because it wasn't through

planning. The second was a staff request, and this would be the first applicant request.

>> That's correct.

>> Tovo: All-righty. Thanks.

>> Mayor Adler: Mr. Zimmerman, then Ms. Pool.

>> Zimmerman: Thank you, Mr. Mayor. I've been involved in a number of these, and I've also, in many years past, come down again and again and again and felt like I was being warn down, so I do have some sympathy for the people that have showed up numerous times, so I'd probably be inclined to vote to go ahead and have this today.

>> Mayor Adler: Ms. Pool.

>> Pool: I was just curious if we could get some certainty if indeed we do decide, which I would prefer to take care of it today, but if it -- if my colleagues' desire is to delay it, I wanted to get some certainty that the applicant, rather than the agent, would be here so that, you know, we are delaying for him to be in attendance.

>> I was not aware may 28th was an option, so I can try and reach him and check with him. I do know that September 10th works. And we can come it to that and we can commit to working with the neighborhood association in the months in between. We've had a productive meeting with councilmember Houston's office yesterday and got some good ideas regarding different types of planning that we're trying to look at on the property.

>> Mayor Adler: Okay. I would move we lay this matter on the table for about 15 minutes to let him make a back to the gentleman's office to see if he's available on the 28th. Is there a second to that motion?

>> Second.

>> Mayor Adler: It's been seconded. Is there any debate on that issue?

[4:35:19 PM]

>> I hope that if we do delay, that you all work it out because I'm ready to move today and vote on it today, so ...

>> Mayor Adler: I would also urge you to try real hard to make that work. My only hesitancy is, as we talked about a second ago, with respect to how retreated speakers, you know, as we change rules, at least the first time I like giving notice, and if we're not going to grant, you know, a customary first-time deal, then we should say that out loud so that people know that. And we haven't done that here, so if we could do it on the 28th, I would probably urge you all to hold on voting and to give him the two weeks. But any -- so the vote then on the motion to table, all raise your hands. Those opposed? Make the call, then come back. We're going to move to the next item on the agenda. Do we have anything left on the agenda, Mr. Guernsey?

>> Yes, there's an appeal on a building permit.

>> Mayor Adler: Which number is this?

>> Paul is coming up.

>> Mayor Adler: I'm sorry, which number is this?

>> 31.

>> Mayor Adler: Okay. And 31, by the way, has a number of speakers. Okay?

>> Good afternoon, mayor and council. My name is Carl Rinn. I'm assistant director for development services and building official. We have an appeal of the building permit before you for your consideration. The property owner in this case began construction in 2014 without a permit, and the city received a complaint to the Austin code department based on that, and they investigated and wrote a citation for that violation.

[4:37:31 PM]

In December, it was a second violation -- or second complaint about an str at this property. But that's not a part of this appeal. The property owner responded to the complaint by submitting for a permit. After having done a great deal of construction on the garage that you can see to the left of the main house. The permit was reviewed by my staff and issued in January, and an appeal was received by our staff from the -- I've got to remember to get the right name -- the highland terrace beverage foundation. Based on that appeal, we stopped work on January 27th. There was a hearing before the building and fire code board of appeals in February. There were six points of appeal by the foundation, by the neighborhood foundation. The board of appeals ruled against the appeal, but with conditions on the building official's staff. Subsequent to that appeal being denied, there has been an appeal to you, four points of appeal, the first being that the permit holder should not -- permit should be revoked because he failed to provide documentation concerning the design of the structure's foundation. Additionally, no inspection of the foundation was performed before the permits were issued to determine whether the foundation complied with code requirements. The owner has subsequently provided an engineering report, and we could not inspect it, legally, under our code without the permit, had no way to document an inspection before the permit was issued. So when work starts without a permit, we almost -- we always have to do forensic inspections and post-permit inspections, which is what we would be doing in this case.

[4:39:47 PM]

Point 2 is that the building permit should not have been issued and building permit should not be allowed to maintain the structure because it violates section 25388, accessory uses. This use is for traditional neighborhood development. This is -- I guess you could call this a traditional neighborhood because it's been around a long time, but the T & D development criteria is very specific to new developments, a new urbanist type of development, and this -- they're not specifically applicable to this neighborhood. Their third point is that a protected tree was cut down. That was not one of the appeals point to the board of appeals, and we have at least one e-mail direction to clear a tree. The tree that's cut down is not that big one that you see. The fourth point is, the building permit holders' permit should not have been issued because it does not appear he is using a licensed contractor to construct his driveway approach. I verified today that Maldonado concrete is indeed a licensed right of way contractor, and they are the permittee for the driveway. Austin -- the law department has representation here to answer any questions about legal issues and about the code if you have any.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I likely have more, but I have a couple for starters. I'm looking at the staff report to the building and fire code board of appeals, particularly with regard to allegation one, the appropriate owner began construction of a garage, et cetera. And the city's response was, work without permission occurs every day throughout Austin.

>> Yes, ma'am.

>> Tovo: But I assume you're not condoning that.

>> I'm not. It's just a statement of fact.

>> Tovo: Sure. I just want to be clear about that because we don't want to have statements in our staff report to say there's anything okay about people starting construction without that.

[4:41:52 PM]

>> Yes, ma'am, you're correct.

>> Tovo: Was the \$150.80 any fine that was added for the work that was done?
>> The permit fee is doubled when work has started without that permit.
>> Tovo: Okay. So they paid the investigation fee, in addition to --
>> The permit --
>> Tovo: Double the permit. Thanks for that clarification. And with regard to the short-term rental, to the operated property -- was that the -- was that the additional construction, or it was the house?
>> No, ma'am, as I understand it, the str issue, if it's still there, has to do with use of the house, not of the garage.
>> Tovo: Okay. Thanks. And then do you know if back taxes have been collected on that short-term rental use that was not registered?
>> I do not know. Austin code department enforces the short-term rental licensing requirements.
>> Tovo: I guess I would -- that's a question I would like to know the answer to as we're considering this. If they were operating the short-term rental without registering it, I want to be sure, one, that they are now registered, and, two, that they've paid any back taxes that they're required to.
>> They technically can't register until they clear up the current permitting issues.
>> Tovo: Are they operating it? Well, then I guess my question -- I think you've suggested I need to direct this to code. I would like to know from code if they're operating their short-term rental outside of our licensing process, and whether they have paid any taxes on the -- on the short-term rental use prior to intervention from the city.
>> My name is Jose Roy, the building official. I checked the property today, and they don't have an approval of license for str. They haven't been approved for it. There was a complaint and there was a code compliance case opened on the house, but at this point they don't have a license.
>> Tovo: And it sounds like they can't get one till this issue -- till this matter is dealt with.
>> That is correct.
>> Tovo: Do you know what the disposition of the code case was, if they've -- you said code had --

[4:43:56 PM]

>> They paid their fine, as I understand it, they paid their fine. The owner is here. He can respond to that.
>> Tovo: Okay. But when you say their fine, are you talking about fine for allegation number one or fine for allegation number two for operating a short-term rental without a registration?
>> The final is for -- I think, again, that's probably best answered by the building property owner.
>> Tovo: Okay. I guess I would -- I'm happy to ask that question of the building and property owner, but I sure would like our staff to verify whatever information we get from the building or property owner.
>> Yeah. I've not seen anyone here from Austin code. I'm sorry.
>> Tovo: Okay. Thank you. Thanks. So I understand that our next -- are there any other questions for our staff? So our next speaker is going to be the applicant in this case. And I'll need some help from our city legal reminding me how many minutes you get. Mr. Lloyd, is it three minutes or five minutes? Four is the applicant, the --
>> If you want to follow the format that we've provided, which would recommend --
>> Tovo: I'd be happy to if I had it. I think you probably provided it to the mayor. Okay.
>> So it should -- Brent Lloyd, assistant city attorney, and this is a format for appeal hearings that is in the land development code, and it's been refined a little bit. Just to kind of reflect our experiences with appeals over the years. And the first presenter should be the appealant. The person that's appealing the permit. And we've suggested -- and this is solely to your discretion to modify, but we've suggested ten minutes.
>> Tovo: Okay. Thank you very much. So I'll call appellant as per the recommended procedure from city

staff.

[4:46:15 PM]

Sir, unless there's objection from anyone on the dais, we will provide you for ten minutes, if we could set the clock for ten minutes.

>> Thank you very much. Since a number of -- by the way, I would like to thank the distinguished members of the city council for giving us this opportunity to be here. I would like to note that a number of our neighborhood members, who are opposed to this building permit being issued, are not here because they have to leave, just as other individuals have had issues heard here mentioned that we all kind of take time away from work. But I did bring a packet of information concerning the 30 or so neighbors who are opposed to this building permit. Could you distribute those, please, Hector?

>> My name is Sam Adod. I live at 47 on 07 [inaudible]. My wife is about to distribute forms the neighbors have signed in opposition to this building permit being issued and in favor of our appeal from the building and fire code board of appeals. We have lived in this particular neighborhood close to 18 years. A number of other neighbors here, Lexa Crane, Cecil Ruby, Ms. Longly, members of the Allandale Highland Park Association are here as well and they'll speak on their behalf. Our neighbors have been diligently trying to get the city's attention to this matter since we noticed it. The reason we didn't notice the violations earlier is because Mr. Thompson had been hiding the fact that he built a foundation behind a wooden fence sometime in, I guess, August or September of 2014. But he had ample time to file for a permit with the city of Austin because he ordered this prefabricated metal barn sometime in June -- June or July of 2014. So he had from July to whenever he took delivery of this prefabricated metal shed.

[4:48:16 PM]

The picture up there actually doesn't do justice to the size of the structure because it's -- its peak is about the same level as the second story of the house. We're not here to discuss the aesthetics of this building, we're here to discuss the violations that Mr. Thompson has undertaken by virtue of his actions and his choices. Mr. Thompson had ample time from the time he ordered this prefabricated metal shed from an outfit out of Seguin to file for the required permits. He will come up here and perhaps say that he didn't know about getting a permit, but in 2014 he also applied for another permit for air conditioning. In September of 2014, he poured the foundation without the proper permits or inspections, and we don't know exactly what's going on with that foundation, whether it was built properly or not. In October of 2014, on or about October 15, 2014, he went ahead and assembled the structure behind his wooden fence, and as soon as the neighbors discovered it, they approached him and asked him what was going on. And they asked him if he had a building permit. He told one neighbor that he had a building permit. Then he told another neighbor that he was working on the building permits. And then he appeared at the November or December Highland Park Neighborhood Association meeting and said that he wasn't aware that he needed building permits. The city of Austin has been a little bit slow about reacting to these violations. In fact, when we contacted him in October of 2014, they advised us it might take 10 to 14 days for him to be cited. But at the pace of development that he was going by assembling this prefabricated metal structure, he was going to be done with his driveway, even though didn't he have a permit for any of those things. We submitted a form in order to request that we be permitted to be an interested party so that we would be on notice of the activities at this property.

[4:50:18 PM]

However, the city, whether intentionally, unintentionally, or just through the volume of work they have before them, they failed to keep us notified. In fact, we didn't know that Mr. Thompson had filed for an application in December of 2014. We also did not get notice that he had received a permit in January '14, even though we had requested designated interested party notification. The thing I find puzzling about this throughout this process is that the city has close to a dozen reasons why they should revoke this permit but they only have one reach to grant is, which is, basically Mr. Thompson has filed an application. So the city is going out of their way to find ways to permit this individual to be able to go forward with their project. Among the many reasons that the permit should not be approved and it should be revoked is the fact that he failed to get the proper permits before initiating his project. The other thing to keep in mind is, you have to look at the course of conduct and pattern and probability that he will have other infractions at this property. For the last seven or eight years, he's been burning brush, and neighbors have been contacting the 311 to ask him to stop. But he continues to burn brush in his backyard. Last time was, I believe, in November 2014. He has been continuing to operate an unlicensed short-term rental, even though he's been cited for it as recently as a couple of weeks ago. He's told people that he's going to stop these things, but they just keep recurring. Besides the short-term rental, besides the building without a permit, he also that a structure that's in the public utility easement that he built without proper permits. He has -- he has also one significant factor of this prefabricated metal structure, because we're not here to discuss the aesthetics of it, at least I'm not, I'm here to discuss the technical issues. This prefabricated metal structure has warnings and specifications which say that you cannot modify it.

[4:52:23 PM]

And the only circumstance that those modifications could be allowed is if a certified engineer allows for it. Mr. Rinn has accepted an e-mail from an engineer who has been cited twice and suspended for failing to inspect projects. The city is basically accepting an e-mail certification that it's okay for Mr. Thompson to add onto his prefabricated metal structure. In looking at the entire situation, there are many other neighbors behind me who are going to speak to the actual experiences they've had with the structure and why it bothers them, but the thing I wanted to point out is the technical issues or technical violations that we cannot overlook. The building and fire code board of appeals, when we had our hearing, initially there was a motion to uphold the neighbors' appeal, and there was a second. That should have been the end of that building permit. However, the city engineer spoke to the board and said that if you revoke this permit, we'll have to demolish it or take it down. It's a prefabricated metal structure. If you go online, you can order the structure through metal building depot for about \$7,500. The foundation may have cost about \$2,500. But we find ourselves as neighbors spending our time and our money and Mr. Thompson is doing the same thing and taking up the city's time, when he could have very well gone through this process and done it properly, hired an architect. The architect could have helped him with the design, and he could have gone through the prompt city of Austin process just like all the neighbors who are here to speak on their behalf about this issue. As I mentioned, there are many reasons to deny this or revoke this building permit. There's a failure to obtain the required permits, repeated violations of the short-term rental, repeated violations of the burning brush, building in the public utility easement, breaking the gas line because he was in a rush after he had been issued a court order to not do any further work on this project, he undertook to do a project and with a bobcat, he ran into -- or his workers ran into a goods line, which was broken, resulting in the fire department coming over and having to block the street, and as well as having danger to our neighbors.

[4:54:48 PM]

The modifications to the prefab metal structure, I'd like to point out that those, according to the specifics and warnings by the icon building notes, it says that you cannot modify the structure. It says that the foundation needs to have a certified engineering plan for it. He doesn't do any of those things. One other note that I'd like to bring up, one of our members who was going to speak who had to leave, he wanted to point out that the highland park west plat restrictions also have some provisions in it that restrict the kind of structure that Mr. Thompson has built. According to the city of Austin's residential building review, there's a provision in there that says that depending on the type of construction and location, residential plans may also be reviewed for compliance with the following items, including subdivision, plat compliance. Recently, in June of 2014, there was a -- I guess there was a modification of our subdivision plat provisions and, in fact, in that document, it says staff has conferred with legal staff. The consensus is that the subdivision meets the criteria. All restrictions and notes from the previous subdivision, highland park west, recorded in on volume 244, so those plat restrictions which have been recorded with the city of Austin and they were signed by the city staff, they were also factored to keep in mind in this. In conclusion, what we'd like to point out is that the building -- we're here effectively because of the building and fire code board of appeals decision. But the building of fire code board of appeals decided in favor of the neighbors who had appealed. And I'd like for the city council to consider the repeated violations. I'd like for the city council to consider the likelihood that there will be further violations.

[4:56:48 PM]

I'd like the city council to look at the fact that this is a prefabricated metal structure that does not allow for modifications, and the engineer that signed off on it has had his license suspended twice.

>> Mayor Adler: Okay. Thank you.

>> Thank you very much.

>> Mayor Adler: Yes, Ms. Tovo.

>> Tovo: I have a few questions for you. So I'm just trying to narrow -- narrow in on the substance of your concerns, and I hear -- I hear that the first one is certainly that the work was done without a permit. Had it been done with a permit, would you still have concerns? Help me understand the plat note and the restrictive demonstrates this area, that they don't allow -- covenants, that they don't allow prefabricated structures?

>> There are provisions concerning the size of the structure. The structure is supposed to be no more than 600 square feet. I would like to apologize to you all because there's a lot of information I'm trying to convey to you all in about ten minutes.

>> Tovo: Sure.

>> But we've had eight months that we've been dealing with this issue. Concerning the plat restrictions, one of the things I'd like to note is that the building permit that the city of Austin staff have approved is a moving target. First, it was attached. It was after Mr. Thompson built his structure, he went ahead and submitted an application. So once he submitted his application, first it was an attached garage, then it was a detached garage because it was more convenient to him. Then when they realized in the highland park west plat restrictions had a provision restricting the size of the garage to 600 square feet, then he implemented a breezeway to make it attached, even though the slabs are not the same piece. At this point, according to what Mr. Rinn has advised me, there's also an issue that there's supposed to be a second roof on this instruct, which we don't know if it's going to be there or it's not going to be there, but it's a moving target.

[4:58:52 PM]

Going back to your question about the plat restrictions, the highland park west/balcones neighborhood has three plat restrictions. I know there are other neighborhoods in west Austin that have hundreds. But highland west has only got three of them, and these restrictions address the size of the structure, they address the type of construction, like masonry or wood, they do have certain specific provisions for how much masonry should be on the structure. And ones that are applicable in this situation are the side of the garage, 600 square feet. However, Mr. Thompson's garage is 750 or 739 square feet.

>> Tovo: Okay. So I'm sorry to stop you. I just want to be really clear on where it differs. There's a size limitation in your covenants. This doesn't conform with those. There are specifications about the kinds of materials. Does it conform with those?

>> Not based on our interpretation of the plat restrictions because this is -- it says standard construction. You have to go back to this standard construction back when those plat restrictions were developed, which was in 1946 or 1948. At that time, it would have been masonry or wood. Mr. Thompson's structure is a prefabricated metal structure.

>> Tovo: Okay. So that hinges on the phrase standard construction methods. And you said there was a third restriction.

>> The third restriction has to do concerning -- there's a -- in our neighborhood, we back up to mopac. There is a natural drainage system that has -- that exists in our neighborhood across from our house, for example, and it starts back on highland circle, I believe it is. And that drainage system goes underground at some point in the neighborhood, and then reappears as sort a little valley, and then it has a gulch and it becomes a little creek that runs into camp Mabry.

[5:00:57 PM]

There's one property in our neighborhood that has a designation for 25-foot -- 20 to 25-foot public utility easement across Mr. Thompson's property. It may be of no consequence. The city has said they can do flatwork on it, or at least Mr. Thompson and his representatives have said they can do flatwork on it, but that restriction is clearly marked on the plat documents.

>> Tovo: Okay. All right. Thank you. And maybe one of the other speakers is going to talk about this. What was the temporary restraining order? I'm sorry if you've mentioned that and I missed it.

>> There's a lot of information to cover in a short time.

>> Tovo: Yeah. If you could just -- I know we have other speakers so if you could just tell us what the temporary restraining order was.

>> When Mr. Thompson failed to stop making modifications to his prefabricated metal structure, and the city was not quick enough to react to it -- because I understand the city said they would have to get an application on file. But there was no application on file yet, but Mr. Thompson was going through the process of still adding onto his garage. He added masonry, he added some stone work and some hardy back. We had no choice to basically protect our neighborhood, so we met with him, or our attorney met with him and asked him to -- what concessions would he be willing to give us. His only concession was that the neighbors could pay him \$75,000 to move the structure or disassemble it. One, the structure, itself, you can buy the metal building depot for 7500. So at that point we felt compelled to file a lawsuit and file a temporary in junction to keep him from going forward to prevent the city or actually assist the city in meeting its obligations.

>> Tovo: Thank you.

>> Mayor Adler: Thank you very much. Before we go to the next speaker, I have some questions of legal.

[5:03:08 PM]

>> Brent Lloyd, assistant city attorney.

>> Mayor Adler: Mr. Lloyd, would you help me? I'm trying to figure out what standard it is that we apply in these kinds of situations. So -- please.

>> Title 25, the land development code provides the right of appeal for decisions of the building and fire code board of appeals to the city council. Our code does not spell out with the kind of detail that I think as a lawyer you would like to see in terms of what the standards are, but it does provide a few useful points of reference. And the first is that you sit in the shoes of the building and fire code board of appeals, so you need to focus on the issues that would legitimately be before that body to decide. And that mind fundamentally that your role here is limited to looking at whether or not this permit meets the technical code requirements, the building and fire code board of appeals, their role is to look at whether or not permits that have been issued comply with the applicable building codes. And so that should really be the focus of your inquiry. You can, of course, you know, ask questions about any of the various issues that are raised, but fundamentally, this case is about whether or not this garage permit complies with the applicable technical codes. In terms of what lawyers would refer to as the standard of review, the appellant bears the burden of showing that the decision was incorrect, so the burden should be on the appealing party to show that an error was made. And this is generally -- these are generally conducted as de Novo open record hearings so parties can introduce evidence. That's essentially the standard.

>> Mayor Adler: But we're limited to whether or not the building permit complies with code.

[5:05:08 PM]

Sir?

>> That's correct. And specifically not zoning code issues, but specifically technical code issues. And I would recommend that if you have questions in terms of the requirements for technical codes that apply to this type of structure, that you ask the building official.

>> Mayor Adler: Okay. So if the building official could come up here for just a moment. Thank you. Thank you for coming back up.

>> Yes, sir.

>> Mayor Adler: I didn't know enough to ask this question when you were up previously.

>> Okay.

>> Mayor Adler: In staff's opinion, does this building permit comply with code?

>> Yes, it does. The applicable code is the international residential code. International residential code allows for any -- just about any building material. So steel is allowed in a residential structure. This is an accessory to a single-family residential structure under our code. So a steel structure is -- is not prohibited.

>> Mayor Adler: Well, what relief does a property owner have then if a neighbor -- let's assume for a second that this doesn't comply with a neighborhood restriction. Is that a basis on which the city can deny a building permit?

>> I'm sorry?

>> Mayor Adler: Is that a basis on which the city can deny a building permit?

>> I'm going to ask legal to come back up here because that's not a technical code question.

>> Brett Lloyd, assistant city attorney. No, the question is about [inaudible] Or private -- essentially private deed restrictions, that's not something that the city can enforce, and I would recommend that this body not base your decision on any issues with respect to private restrictions.

>> Mayor Adler: Okay. So that's helpful.

[5:07:08 PM]

So what I would be helpful in hearing the witnesses testify to would be matters that would give rise to whether or not the building permit complies with code. Ms. Pool?

>> I'm looking at the staff report to the building and fire code board of appeals, page 2, number 4. Allegation 4. I'll go ahead and read it. There are deficiencies in the submitted BP application which clearly contains omissions on the application which potentially affect impervious cover, as well as public utility easement provisions. Note that highland park west has plant restrictions that restrict size-height materials of detached garage. An then the city response is: As per our 104.4, 2012 irc, the building official is authorized to require an impervious coverage survey verifying submitted drawings. I'm not sure I understand that response. It seems vague. Could you --

>> There is a survey with the -- with the permit, if I remember correctly. I don't have all the documents in front of me, but if I remember correctly, there is a survey, as a part of that -- the submittal.

>> Okay. So you did require the impervious coverage survey.

>> It was checked. My staff doesn't just look at the residential code, it looks at the zoning, if there's specific zoning issues like setbacks. But flatwork is allowed, and a public utility easement, like a sidewalk or driveway.

>> Pool: Mayor, I guess one of the problems I have with this is that we have plant restrictions that the neighborhood has otherwise complied with, except for this one gentleman, and now we find out that, legally, those plat restrictions can't be enforced, but they have been voluntarily agreed to by the rest of the community. And so I recognize what Mr. Lloyd is saying, but I am sympathetic to the neighbors' concerns about the fact that this does, in fact -- does, in fact, violate what the plat restrictions are for the neighborhood.

[5:09:22 PM]

>> And then we couldn't give legal advice from up here on the dais, but even if the city can't use it as a basis not to give a building permit, if there's a plat note or a neighborhood restriction, would seem as if there are enforcement mechanisms open to a neighborhood to enforce those. It just might not be this particular device. If I have a neighborhood restriction and somebody has built next to me in a way that's inappropriate with that, I have the ability to go into court or otherwise enforce my restrictions against my neighbor.

>> Pool: So the neighborhoods are seeking that redress from this body, and you are possibly suggesting that there's a different appellate body that should take this up? Would that have been something that maybe the fire code board of appeals should have made note of earlier in the process?

>> Mayor Adler: My sense is that with respect to the permit, the city grants or doesn't grant the permit based on whether the permit application meets the requirements for our permit. One of the things that our permit does not look for, apparently, is whether or not what is being requested complies with private contractual agreements between the neighbors. So I'm not sure that the city becomes the forum to litigate a bad neighbor. And that bad neighbor complaints are taken up somewhere else. That's what I understood our folks to tell us. But I join in the subject hearing the other people talk, I also hear the other frustration and same measure of concern. We do have people on both sides to speak, and we can -- and we still have public comment to make.

[5:11:24 PM]

>> It looks like Mr. Hadad was wanting to respond to my question.

>> Mayor Adler: Ms. Gallo.

>> Gallo: It's my understanding from talking to Mr. Hadad and the neighborhood that there is currently a

lawsuit pending?

>> Correct.

>> Gallo: Could you share that information for us, please?

>> There is. One thing I wanted to clarify based on councilmember pool's question about the plat restrictions, we have a number of neighbors who had their own perspective that they'd like to present. I'd like to make sure that they get their opportunity. We also have a highland park neighborhood association Nebraska who member who has some knowledge about the plat restrictions. One thing I want to point out about the plat restrictions, and this is critical, back in 2006-2008, I was working with the city on another project where the developer was building in our neighborhood. I contacted the city and said the plat restrictions forbid this individual from building a duplex on that particular property. Because there are certain particular properties that have hash marks. Those are eligible to become duplexes, but this particular property that the developer was going to build on didn't have the hash marks. And Mr. Guernsey sent me an e-mail and said that we, the city of Austin, will not enforce any plat restrictions to which we are not a signatory. Well, I have a conflict of plat restrictions and the city of Austin as a signatory. And that's what Pete Cedesma is who is on the neighborhood association was going to speak to, but he had to leave. But this clearly shows that the city does look at those and we wish the city had looked at them. But, really, the point that we want to make today, and I don't want to have it get lost before the city council, is a technical issue. I have one of our neighbors kindly transcribe the notes from the building and fire code board of appeals, and I wanted to mention that according to the building and fire code board of appeals land development code section 2-1-121, the board may not waive a code requirement.

[5:13:28 PM]

The board did find a violation of the ordinances. Mr. Thompson failed to build his structure according to the required land development code and international residential code. The board, before concluding the public hearing, they said -- the motion was made by Mr. Ott and seconded by Mr. Kinotti to uphold the appeal. Other than discussion, no. That was the end of it. The board did, in fact, find violations, but then when the city interceded by saying, well, if you uphold the appeal, then we're going to have to require the structure to go down -- and I understand that's a setback for Mr. Thompson, and I'm sorry about the expense he's gone through. But the honest truth is, this is a 75-hundred-dollar prefabricated metal structure. You can order it on metal depot.com. And the foundation is \$2,500. He built it himself so we don't have engineering design plans, but we have Ms. Reynolds who has engineering experience, and I would like for her to have an opportunity to present information about the fact that the city has accepted unsubstantiated or unsupported engineering plans from the engineer who, post fact, went ahead and signed off on a report saying this these -- that this foundation is solid, based on what Mr. Thompson told him, who's an interested party. And then the city has also accepted an e-mail, a one-line e-mail, from an engineer who's had his license suspended twice, that this prefabricated metal structure can be modified when the actual specifications and warnings on the structure's forms that were submitted to the city say, warning: Do not modify the structure. Not that you can modify it. Do not modify it. And it says that it's -- if you modify it, it's a public danger. But I would like to hear from Ms. Reynolds and then the neighbors.

>> Mayor Adler: And we'll call the other people that are speaking as well.

[5:15:30 PM]

Yes, sir?

>> Mr. Mayor. There are a number of notes on the plans. The one that Mr. Hadad is referring to says: Install this building and all its parts per these drawings. No changes should be made to this building unless approved in writing by the manufacturer's engineers. Unapproved changes could result in unsafe building design and could render danger to the public safety. That's the note that he's referring to. There's also another note on the plans that says: The structure under this contract has been designed in detail for the loads and conditions stipulated in the contract and shown on these drawings. Any alterations to the structural system or removal of any component parts, or the addition of other construction materials or loads, must be done under the advice of a registered architect, civil or structural engineer, icon building systems will assume no responsibility for any loads not indicated. The structural engineer for icon systems did e-mail an acceptance to this. Is that adequate documentation of his acceptance? I don't know. I mean, we get e-mails all the time. There's a lot of communication by e-mails. Mr. -- The owner actually has under contract or had under contract an architect who helped design the building and facade, and he had a structural engineer who provided a written report of his personal investigation. I dug up the foundation myself in two corners.

>> Mayor Adler: [Inaudible] Public testimony. Sam Hadad, we've had. Michelle Hadad. Is Diana Edgar here?

>> She had to leave.

>> Mayor Adler: Okay.

[5:17:30 PM]

You have three minutes.

>> Okay. Hi. My name is Michelle Hadad. I've lived in Austin almost my entire life. I've lived at 4707 highland terrace since 1998. We've enjoyed living in our neighborhood, which is bordered by 45th street on the south and Hancock boulevard on the north. We are within walking distance to highland park elementary school. As property owners, I estimate that the 30-plus neighbors who support our appeal paid about \$372,000 in property taxes in 2014, to be able to continue to live in our well-established family-friendly neighborhood. So we're committed to our neighborhood. Many of our elderly neighbors like the families who live on valley oak, just one street west of our street, have lived in the neighborhood since the '50s. We all share a common goal to maintain our safe and attractive neighborhood and we all support the appeal to prevent Mr. Thompson from moving forward on this project because of the violations of city ordinances. As concerned citizens, we have followed the city of Austin protocols and legal recourses available to us, as citizens of Austin. We have reported our concerns to code enforcement through 311 on many occasions related to new or permitted construction at this property, burning of brush in the backyard on many occasions, the use of this home as a short-term rental, which has continued in spite of his application for a short-term rental permit being denied, and digging through a gas line without a permit, putting awful our properties at risk. We have mailed certified letters to the property owner expressing our concerns about the unpermitted structure, and we've included copies of our neighborhood plat restrictions. We have followed up with calls and letters to the city of Austin permitting office. We have obtained outside counsel to represent our concerns as a neighborhood group. When the city enforcement failed to act quickly enough to stop the further violations and construction. We have followed the city of Austin appeal process resulting in this hearing here today in front of you all, the Austin city council.

[5:19:31 PM]

We have followed the recourses available to us as concerned citizens in order to protect the safety of

our homes, and ensure a quality neighborhood. As homeowners, we, ourselves, have contacted the city of Austin permitting office before starting our own construction projects, to obtain the required permits. As Austin residents, we have followed the ordinances and protocols set in place by the city of Austin, which made those available to us. The property owner at 3100 Highland Terrace West has not followed the protocols and ordinances, as is evidenced by the various, various, unpermitted structures built on his property. The purchase of this large metal structure, which was purchased in July 2014, and the installation of the structure behind his wooden fence in September or October 2014, which was more than ample time to obtain a permit to build the structure. Mr. Thompson had time to file for a permit. Mr. Thompson had time to inquire with the city about the appropriateness and safety of this structure, but Mr. Thompson chose not to do that.

[Beeping] Mr. Thompson has gotten away with building unpermitted structures in the past. He has gotten away with burning brush in his backyard on multiple occasions. He's gotten away with operating a short-term rental without a permit. Please do not let Mr. Thompson get away with this large metal shed. Mr. Thompson's actions are putting our neighborhood properties at risk of physical harm and devaluation of property values. Thank you for your time.

>> Mayor Adler: Delilas Thompson? Am I pronouncing that correctly? Is Caroline Reynolds here? I'm sorry? Where's Delilas?

>> [Inaudible] Is the property owner.

>> Mayor Adler: I have you on the list later.

>> Yes. I'm saying Mr. Thompson is the property owner, so he isn't supporting this appeal.

[5:21:35 PM]

You probably want to hear from him after the neighbors.

>> Mayor Adler: And we will. Thank you. Caroline Reynolds.

>> My assistant is going to give you a copy of my comments because I didn't have the -- I didn't have time to get them to you since this was on short notice. I am Caroline Reynolds. I am a licensed professional engineer in Texas. I'm a lifetime member of the American Institute of Chemical Engineers. And Mr. Rinn and I were licensed in the same flight of engineers in the spring of 1985. 30 years ago. And I'm also on the Allandale Neighborhood Association. I'm here to speak about the engineering ethics and the scarceness of evidence regarding the quality and sufficiency of the foundation slab under the metal building that was erected last fall on Highland Terrace. And ask the question, how can the city grant a building permit for a metal building without an engineered slab? There are no -- there's nothing in the city record except notes on the metal building that says it does not include a slab, that you have to get that engineered yourself. So it's a complete blank. Nonetheless, I want to remind you that the Texas legislature passed the engineering practice act to protect the public's health, safety, and welfare, and then wrote rules. And those rules state that the purpose of an engineer's seal is to assure the user that the product has performed or been -- has been performed by or directly supervised by the professional engineer who signed and sealed it.

[5:23:40 PM]

Also, license holders can only seal work done by them or under their direct supervision. After reviewing all available evidence at the city's department web page concerning the permits and the work, and at the city's web page, I'm still left wondering whether Mr. Tucker, who has submitted two sealed opinion letters regarding the slab -- whether he performed all of the investigation necessary to make had his statements in either the first or the second letter. The first opinion letter that he submitted was based solely on his interview with the owner of the property, and that's what he states in his letter. It's about a

two-line letter saying that he interviewed the owner, and that's how he drew his conclusions. And even though -- this was -- this two-line letter was acceptable to Mr. Rinn and the board, it was the neighbors who questioned the lack of independent investigation and the sufficiency of this notice. And so Mr. Rinn asked for a more detailed letter. Usually, engineers want to impress you that they did the work.

[Beeping]

>> Mayor Adler: You can finish your thought.

>> Pardon?

>> Mayor Adler: You can finish your thought.

>> Thank you. And so they usually submit photos, field notes, laboratory analysis, and calculations to support their opinions. I have found little supporting data, except Mr. Tucker's letter that discovers -- describes a visual inspection of the slab and his use of a meter to determine the location of the rebar. And then he goes on to state that there are concrete footings. He doesn't say he looked at them.

>> Mayor Adler: Thank you.

>> He says that the design load is okay.

[5:25:44 PM]

But to begin with the obvious, if a 6,000-pound load is transferred to four footings, the footing is carrying a load of 1500 pounds per square foot, not less than 1000.

>> Mayor Adler: Okay.

>> And then, he has -- there's no evidence that he investigated the depth of the footings, the area, the number and location of the rebars. It goes on and on, the rest of my letter.

>> Mayor Adler: And we have --

>> And no amount of fees can cure the fact that the city doesn't have a design, they don't know how it was implemented, how could they say it's okay?

>> Mayor Adler: Thank you, Ms. Reynolds. The next speaker is Eric Hanson. And then Maggie Longley is on deck.

>> Good afternoon. I'm Eric Hanson, and obviously speaking on behalf of the neighborhood preservation group. I'm a native austinite. My kids have gone through Mccollum high school. At the outset, I really want to let you all know that I believe in property owners' rights. Dallas Thompson has a right to believed a garage on his property. I don't think a metal barn is particularly compatible with the surrounding neighborhood. Yes, it detracts from our street but I don't feel like we have the right to dictate Dallas's taste. All we can do is that, you know, we try to fit in with the '40s and '50s ranch style. What I do have issue with is that Dallas Thompson built the structure without going through the proper channels. He built the foundation behind his fence, as we've heard testimony about. This structure was erected in one day, just so the council knows that, and here we are many months later. What I realized during this -- during this process is that there's very little recourse for neighbors such as ourselves. We've gone through hearing at the city fire and safety, the district courts, because the city, while recognizing the legality of plat restrictions, refuses to get involved, and the only course of action is the courts.

[5:27:57 PM]

When I was president, I'm paraphrasing: If I had to chase down people who built unpermitted structures in this town, then I wouldn't get anything else done. I respectfully disagree with Mr. Rinn. It is his and the city's job. Effectively, you guys have made our neighborhood group the de fact code enforcement for our neighborhood. What if the city council adopted a strict and serious fines for unpermitted structures?

Does anyone in their right mind go speeding through a school zone while talking on a cell phone anymore? How about speeding down mopac in a construction zone? Actually, you could probably tell chief Acevedo that the speeders are back now. The city has made the fines stiff enough to warrant speeders' attention. That's what needs to be done with code enforcement. I suspect that Dallas Thompson has only paid a couple hundred, we found out today, \$150 in fines. 150 bucks for what he's done, and everybody has wasted time. What if we didn't have to get attorneys involved and those thousands went into the city's coffers? It's a pretty good deal for the city. This can be fixed. Support Mr. Rinn by giving him the tools to effectively do his job. Send a message to violaters that they must comply with city codes. Make it so financially painful to cheat, that they think twice. Take this process back so the people like me, aren't clogging up your meeting times.

>> I just want to say thank you very much. I think you bring up some really good points, you know, as we do with our children, the higher the penalty, the more likely they are not going to be bad behavior. Doesn't always work that way.

>> Mine are still learning that geology particularly the planning and zoning and building departments are all areas that the council has committed after the Zucker report to really working with our city staff to try to fine-tune and come up with really good solutions so I really appreciate your comments and your suggestions, and I think that certainly is something we would want to look at.

[5:30:12 PM]

So thank you.

>> Thank you.

>> Kitchen: Ms. Longly. I think you have donated time is James ruby here? And Alexandra Crain? You have nine minutes.

>> I don't think I'll need all nine minutes. I'm thinking what I would like to address is the questions you feel you're responsible to answer, and that is does this foundation pass the inspection. So what I learned is that Mr. Thompson built this foundation himself. Then I learned that the engineer who signed off is suspect. So what I feel like I should address is Mr. Thompson -- is he worth his word. If he is saying that this was built a certain way and people are believing him, should we all here today believe him? The other reason I'm here is because on January 26, the gas main was ruptured. I was at home and I witnessed this happening. I witness -- witness what had caused it. I learned today that that contractor is a licensed contractor. I witnessed that contractor -- his staff or he himself in a bobcat on the street with a bucket lowered, ramming the curb to try to loosen the curb from the ground. I don't know if they knew that there was a gas line under the grass because there was no inspection. The inspector did not show up and say, okay, if you're going to pull this curb out here, this curb has been here almost 60 years, that's old concrete, hard as a rock, that's clay soil, it's probably -- has to be jackhammered off, taken off in small pieces so that you don't risk the gas line below. Okay. So that opportunity was not received by Mr. Thompson because he didn't apply for the perm. I saw that happen, the equipment stop, the fire engine show up, we were all told to stay in our houses because there was a risk to our lives.

[5:32:29 PM]

So that's Mr. Thompson. That's the choice that he made to hire a contractor who did that type of work. So Mr. Thompson's attorney also said, well, the gas line was a little bit low at his property. His property has a drainage -- sewer drain in front of it. That logically means that his property is a low point on the street. An inspector might have looked at that and said, okay, this is a 60-year-old gas pipe. They don't bend those down. Because if they do there's a risk it's going to corrode, that moisture can develop in that belly of that bent pipe. And cause a gas line rupture. So there was no building inspector to say, hey,

you know, because you've got this drain here, your property might be low, that might be a shallow gas pipe. That didn't happen. Mr. Thompson's word, let's talk about that a little bit more. The times that I have witnessed the burning of the trash in the backyard, I live two houses away, the wind got my attention. I thought that there was a structure on fire and the fire trucks showed up. I did not research this myself. I understand that there were multiple times that this happened, the fire trucks had to respond. He would say, oh, I didn't know it was illegal and I won't do it again. So that's more evidence if you're -- if you're asking yourself do we trust how this foundation was built based on Mr. Thompson's word, I don't see how you can do that. A couple things I wanted to say about the consequences of someone being permitted to build this type of structure in a residential area in Austin. We just got our tax assessments recently. They went up. That's the way it goes it I don't mind paying taxes. I think it's a privilege to live where I live. But if this kind of construction is permitted, other people are going to do it because it's cheap.

[5:34:34 PM]

It's a quick way to do it. And if they're gonna point down the street and say, well, that guy did it, you know, here's my engineered slab, I actually hired an engineer to, you know, do the drawings. I've got a permit to do this. The value of our properties is going to go down. We're all going to appeal our tax assessments. 311 is going to get overletted with complaints. Our values are going to go down if this is allowed. So can I answer any questions with my extra time?

>> Mayor Adler: Any questions? Thank you very much. Next speaker is content Thomas. Then peter sebesma is next.

>> Mr. Thomas.

>> How do you do, my name is content Thomas, resident of 4710 highland terrace, lived there 25 years. Our home is across the street from 3100 highland west, the property subject here. We've seen many enhancements to our neighborhood, many improvements to the neighborhood. We've never had an occasion -- I've never had an occasion to come to any city meeting or any city council meeting or any building permits, building and fire code meeting to protest anything. This happened in the neighborhood -- that's happened in the neighborhood. Like our earlier speaker said, I defend everybody's right to manage their own property in a way that makes sense, but what we've got here is an example of someone who doesn't have a sense of community and doesn't have a sense of neighborhood and is -- has bought this property understanding the deed and plat restrictions that we live within, that are also signed by the city of Austin, and then just disavowed those.

[5:36:42 PM]

I support -- by the way, I want to say I have a whole new appreciation for the work do you and the service you provide here and your patience, absolutely. So I will try not to waste any of your time here. We support the appeal of the building and fire codes decision to uphold the issuance of the permit. We don't want the permit issued. The issuance of this permit in my -- and my view of the whole scenario looking at this over one months it was an understandable mistake from city staff's standpoint because the owner of the property misrepresented what the permit was for and the intention of the permit and what was going to be done there. The 2-story corrugated metal barn in the front yard of 3100 west highland terrace is not appropriate for a residential neighborhood. And specifically conflicts with the neighborhood rules and the plat restrictions that are signed by the city. We followed the process. That's -- we followed the process available to us from the standpoint of what we're available to -- what's available to us to address. We worked with the city permitting office. We've worked with the fire and building code board. We've done what's available to us to try to address this problem that we've got in

our neighborhood that prevents the quiet enjoyment of what we're trying to do there. We have a new council here, new form of city government, actually, and we appreciate what you're doing for us. You know, we would like, as you're constituents, a couple of simple things, right? We want to preserve the things about Austin that make --

[buzzer sounding]

>> -- It's a fantastic place to live. And we want our city to evolve in a way and grow in a way that protects the values that make it a great place.

[5:38:44 PM]

The building permit in question goes directly against both of these ideas. Help us preserve our neighborhood and help us defend our neighborhood rules and restrictions that the city signed. Thank you.

>> Mayor Adler: Thank you, sir. The next speaker is Peter Sebisma, he had to leave?

>> Mayor Adler: He has to be here in order to be able to donate his name. Next speaker is Grover Johnson. Is Mr. Johnson here? Okay. Then the -- those are all the speakers speaking in favor of the appeal. The property owner to speak against the appeal is Mr. Dallas.

>> Dallas.

>> Mayor Adler: Dallas.

>> [Off mic]

>> I'm proposing to be the --

>> Mayor Adler: This is the response? That's fine. Mr. Erian, we'll recognize you first.

>> Thank you. Mayor, members of city council, my name is Terry Erian, I'm representing Dallas Thomas.

>> Mayor Adler: I'm giving you six minutes. Is that sufficient?

>> That will be fine.

>> Mayor Adler: Thank you.

>> I wanted to start by answering a couple of questions that were concerned to you, Mayor Pro Tem. There have been a number of allegations of violations of the STR ordinance. There were some events at his property early on. He has not been cited with a violation. He was given one warning citation. And then when the property was put under a stop work order, he couldn't go apply for an STR license, but there has been no STR use of the property since that time.

[5:41:01 PM]

He did start working without a permit. And that was a mistake. There's no question about it. It's a mistake he's been paying for for quite some time. First with a municipal court fine, second with the doubled permit fee, and the inspection fees. So he's paid several fees and a fine, but, more importantly, he has been put under the incredible scrutiny of going through this process since January. The building permit that he did submit was issued on January 14 of this year. On January 27 there was a -- based upon a complaint that had been filed by the neighborhood, a stop work order was issued. And all work at the property was stopped. He then had an appeal of that stop work order on February 13, before the building official. And after hearing from both sides, the building official determined that the building permit had been issued in accordance with the national residential code and met all zoning requirements of the zoned district in which this property was issued. And the building official determined that the stop work order -- that the building permit was properly issued but said that he was going to maintain the stop work order in effect because in the meantime the neighborhood had already appealed to the building and fire code board of appeals. That hearing was on February 25, 2015. There were some statements that the building and fire code board after the hearing supported the neighborhood's

position.

[5:43:04 PM]

They did not. The decision was a 6-0 decision, supporting the building official in determining that the building official did not error in issuing the permit. Nine appeal was then filed to you by the neighborhood's attorneys and there were four issues that they said they were appealing. The first issue was that there was no documentation that the structural foundation had been properly constructed in accordance with the international residential code. It is true there was no inspection before the [indiscernible] Because there was a foundation inspection that had been done. It's not -- it's not nine -- the correct way to go but it but it does happen quite often and there is a process on determining on after the fact permits whether or not a foundation has been properly constructed in accordance with the code and that process was followed. Mr. Thomas hired a structural engineer, tucker engineering, they came out. They duling around all the four corners, they determined the thickness of the concrete, they used a device to -- magnetic device to determine where the re-- rebar is, made calculations and the structural engineer certified that the foundation could support all of the wind loads of the structure that was put on top of it. There's a question raised about violation of deed restrictions. The city, as Mr. Lloyd said, the city does not enforce private deed restrictions.

[5:45:12 PM]

Never has and there is a forum for that to be done. That is the district court. And there is a district court case currently pending. Both sides are represented by counsel, and that issue is before that court. Let me just say that the issue of whether or not there's a violation of the deed restriction hinges on whether or not this is a stand alone auxiliary structure or if it is attached to the primary residential structure. If it's attached to the primary residential structure, it's my understanding it would not violate the deed restriction. That is an issue that's not going to be decided by this council. It's going to be decided in the district court. There was another suggestion that the property may violate the impervious cover allowances on the property.

[Buzzer sounding]

>> Mayor Adler: You can finish your thought.

>> I'm going to ask for a few more minutes. Mr. Hadad was I think given ten minutes and allowed to come back. We're going to have far fewer speakers. There were a number of things to address, if I could have just a couple more minutes.

>> Mayor Adler: And that's fine. The script that was given to me from the staff said we should roughly equate the number, amount of time but so that it's not just unlimited would another three minutes suffice?

>> I'll wrap it up in three minutes.

>> Mayor Adler: We'll make that a hard stop.

>> The solution when someone starts work without a permit is not a permanent ban on development on that property. It can't be a permanent pox. The only issue before this council is did the building official err in issuing the permit when the building owner finally came to him and asked for a permit.

[5:47:22 PM]

We sitting that did he. The second issue of the four issues was that there was a zoning violation because the -- it somehow violated the traditional neighborhood district standards of 25-3. This is not a tnd it did not violate the accessory use provisions. The building official determined that that was not an issue

before the building and fire code board of appeals and it's not an issue before you on appeal. Protected tree, I think that was well-covered. It wasn't a protected tree. We have an e-mail from the city arborist, it was under 19 inches, it needed to come down in order to relocate the driveway because the existing driveway was compacting the roots zone of a couple very valuable oak trees. Finally, as Mr. Rinn said, the driveway permit contractor who had a permit from the city was a licensed contractor. In summary, let me just address a couple of additional issues that were raised. There have been some questions as to whether or not the structural engineer who filed the engineering certificate did it properly and whether or not he was competent. That really isn't an issue for this council to decide either. That's an issue that can be brought up before the Texas engineering licensing board. It is -- the allegations that there have been some improprieties by an engineer associated with the manufacturer has nothing to do with tucker engineering.

[5:49:28 PM]

Tucker engineering was hired by the applicant. He did an invasive investigation of the slab before he made his determinations. He wrote a letter that is certified, which I understand the building official is comfortable with. If anybody wants to challenging tucker engineering's competence, that's what the Texas licensing board is for. I'll be happy to answer any questions.

[Buzzer sounding]

>> Mayor Adler: Anyone have any questions? Ms. Tovo.

>> Tovo: Mr. Erian, you were talking about a tree, an e-mail that your client has from the city arborist. I don't see it in our backup but do you have a copy or could you read to us?

>> I do. I'll show you a copy. Tucker engineering's certificate, the e-mail from James Goble and a copy of the permit.

>> Tovo: Thanks.

>> Mayor Adler: Would you say those into the microphone so someone watching this could hear what they were as well. Mr. Hadad I will give you a --

>> Tovo: I have a few more questions.

>> Mayor Adler: I was -- as he was walking back I was telling him I would give him three minutes at the end.

>> Yes, I just handed mayor pro tem an e-mail from the city arborist who Mr. Dallas Thompson, authorizing him to remove a tree which he said was not a protected tree and which was necessary to be removed in order to protect a couple of oak trees. The second document was tucker engineering inc.'s sealed engineer's opinion that the foundation for this garage structure is adequate and sufficient under the international residential code to handle all the wind loads on the structure.

[5:51:39 PM]

The third item was the driveway permit, which was issued to Maldonado contracting, which is a licensed contractor with the city of Austin.

>> Mayor Adler: Ms. Tovo, you can complete and then Mr. Renteria. Ms. Tovo.

>> Tovo: Sure. I guess this is really a question for our city staff. Is Jim Goble -- he is Ann Arbor ris, okay. I guess would I Lyle like our staff to confirm what Mr. Goble's role is and whether he is indeed with the city arborist's office. It looks like he is.

>> Rodney Gonzalez, acting director for development services. I can he is. I can definitely confirm that information shortly.

>> Tovo: Thanks.

>> Thank you.

>> Tovo: Will we hear from your client, Mr. Erian?

>> Yes.

>> Tovo: Thank you.

>> Mayor Adler: Mr. Renteria.

>> Renteria: Mayor, I don't want to -- I want to make a motion that -- to close the public hearing and deny the appeal.

>> Zimmerman: I'll second that.

>> Mayor Adler: Joust that you know, we have two more people that were on the list. No, no pep was speaking -- so Ms. Tovo had a question of that speaker.

>> Zimmerman: I'm sorry. Take it back.

>> Mayor Adler: All right. So we just have two left.

[Laughter]

>> Mayor Adler: So Mr. Dallas. And then the last speaker we have is grover Johnson and then Mr. Hadad gets to close.

>> Thank you for your time. I earned a great deal of respect for what all of you do and realize there's many late nights you have away from your families. I appreciate your sacrifice. I'll go through the 50 slides extremely quickly.

>> You have two minutes 50 seconds left.

[5:53:40 PM]

>> Real quick, sir.

>> I'm not a fan of death by powerpoint so I'll be sure to go through this quickly. I apologize. Just a point -- Jeff tuck ser the engineer. I believe the engineer that's being claimed to have license issues is not Jeff tucker so if you can please confirm that, ask for evidence, I would ask for evidence or proof that Jeff tucker had his license revoked just to clarify.

>> Mayor Adler: You need to speak in the microphone.

>> Jeff tucker was the engineer, if you could ask they please provide evidence that -- I ask that you ask that question, that that evidence be brought forward and that proof be shown. Okay. Perfect. I'll go lieu this really quick. I feel hopefully you agree that the existing state of the property, what's proposed is much better. You can look at the current driveway. I think it looks hideous. I can understand my neighbors would be very upset, I'd be upset as well given the fact the property has not looked the way it should for many years. I'm trying to improve the property. You can see the driveway here. Here are the permits from the city. Every single document shows in the permitting process that the garage was attached. Always been attached, very important for the plat restrictions. There was no plat violation or plat restriction violation on this house. It was stated the garage was taller than the house. There's a photo. The garage is about 14 feet tall, for architectural standards, the house is about 19.5 feet tall. Here's the dig, the gas line was only 7 inches deterioration should have been 3 feet. As aa consequence they moved the gas line. I think more important I petition and worked very hard to have a harmonious relationship with my neighbors. I called a meeting. It was in October. I sat down with them, I specifically asked them what is it that you need me to do?

[5:55:44 PM]

John toy was at that meeting. You can see an e-mail he just sent me that he doesn't remember much but he remembers me asking for feedback and asking my neighbors giving them the right to help design my own home, my homestead. I then from that meeting where you can see the list of everybody signed up, everybody who had a legible e-mail I then sent them this e-mail. This e-mail basically petitions and

asks will you please meet with me and express and share with me your concerns, what they are. I gave them dates of availability. I traveled probably over 150 days last year so I -- there are oftentimes I'm not in the home. But I asked specifically to meet with them. I got no respects from this. Not a single respect. I then took it upon myself to make a third attempt and walked door to door and shared the plans with the neighbors. I've got a history of those events written down here. One interesting thing, Kristin Bradford who lives directly across the street, you heard Lisa -- Lisa actually lives on highland terrace, I live on highland terrace west.

>> [Off mic]

>> Mayor Adler: It's okay. It's okay. You can proceed.

>> I didn't interrupt you. Can I please speak?

>> Mayor Adler: Excuse me. Talk to us, please.

>> Yes, sir. Then this e-mail I sat down with Kristin and she said can you please lower the door? I don't like the door, it's too tall. So I lowered the door. And you can see that she shot an e-mail out to the neighbors saying, hey, Mr. Thompson asked our opinions, he actually lowered the door as I asked him to do, let's not get this --

[buzzer sounding]

>> Mayor Adler: You can finish your thought.

>> I then made a fifth response, and I posted this letter on the street, giving everything an opportunity to talk to me and at no point did anybody take me up on that offer. The property does meet the plat restrictions. Sorry I took more than three minutes.

[5:57:44 PM]

I offer to answer any you have.

>> Mayor Adler: Okay. Any questions? Ms. Tovo.

>> Tovo: Would you mind back up a couple slides. I know you had to go quickly through the last. I wanted to see that one.

>> I'm sorry, ma'am?

>> Tovo: Could I see the next -- yeah, just for a sec.

>> This e-mail is a response from Mr. Hadad to Kristin. She said great, the neighbors hate me too now because I suggested we sit down and meet together.

>> Tovo: I saw that one. So I have a couple questions for you. I guess the first one is I'd like you to address the issue related to the short-term rental. Let me ask a broader question. How long have you owned the property?

>> I've owned the property since I believe about 2016. Because of work there's been extensive periods of time where I have leased it out. Not to families, because a family wouldn't rent the home in the current condition, I believe 2005 or 2006 is when I bought the house.

>> Tovo: Thanks. Is it accurate information that your neighbors have resented that you rented it as a short-term rental without licensing it.

>> That is correct.

>> Tovo: What have you done to correct that error.

>> I paid taxes, got the documentation to prove it and I filed for the permit with the city. The city said we're sorry we cannot give you a permit until you resolve this issue.

>> Tovo: So you did payback taxes for the times it was rented?

>> That is correct. It was required to file for the permit and I've got a copy of that information.

>> Tovo: Thanks. Have you rented it as a short-term rental since?

>> I have not.

>> Tovo: Then I have as you probably know we've been presented with some information, fire

department reports, and I guess I really need you to address why it is that you were continuing to set fires in your backyard in violation of our city code after being told once that was not allowed.

>> Do you have the dates on all of those. I don't know if I was actually living in the home.

[5:59:45 PM]

>> Tovo: The first was 3/13/2002 construction trash fire, that was the report from the --

>> I was in the middle east serving our country in 2002. I did not own the home.

>> Tovo: So that was not -- you did not own the home until 2006.

>> I didn't own the home, correct.

>> Tovo: Thank you. The second was 2/9/2008.

>> Correct. There was one occasion did I do a large brush fire, the city did warn me on it. Since then I've had a small container and I'll rose marsh mellows and other things on that and calls have been made to the fire department when I'm using that.

>> Tovo: The next two violations were 3/4/2012, burning vegetation in the backyard. It says the homeowner was informed that that was not permissible. And then the last two were 11/29, trash being burned, the home was under renovation, advised the homeowner of the code, reopened fires inside city limits. And then the last was 1/-- was the gas break. So that was a different -- that was a different issue but those are the other two that we have information or backup about.

>> Yes, ma'am.

>> Tovo: I didn't know if you wanted to respond to that.

>> Yeah, I did do a large brush fire and I was told not do that anymore and that did occur. Those other instances I've got a bin and I burn in those bins and they'll come over and say don't do the bin. I mean, I'm at the point now I recognize I should never use that bin that anybody would use when they put wood and whatever in the bin.

>> Tovo: Not to be argumentative, it looks like the fire department from the reports advise you not do that again.

>> I'll never do that again.

>> Tovo: I mean, it's not just a matter of your neighbors. Okay. I think that's it for now. Thanks very much.

[6:01:46 PM]

>> Mayor Adler: Any further questions.

>> Tovo: I appreciate it.

>> Mayor Adler: Thank you. Any further questions? Thank you very much. Last speaker we have since my screen has locked here, last speaker is grover Johnson -- sorry, Lavonne Watson. And then Mr. Hadad you get three minutes to close.

>> Thank you, my name is Lavonne Watson. I've done some general contracting and labor for Dallas Thompson, and specifically what I came to represent was in reference to the tree that was removed. We have a small landscape company that we've done numerous tree removals for different customers throughout Austin and surrounding areas and we're definitely aware of the ordinance that says that you have to have a permit requiring the tree removal if it's 19 inches in diameter or larger. This particular tree they dispute that it was a protected tree that was removed and it did not have a tag on it and also according to the document that Dallas showed us regarding speaking with getting the permit for the building, he had already received the information saying that the tree was permitted to be removed and just on a personal note, I know the neighbors have been having issues with Dallas following certain things and guidelines regarding this permit, but I've known him for about five or six

years and as far as a personal integrity issue with him, he would give a person the shirt off their back. One stunt that happened about me we had a disability in our family over the Christmas holidays and Dallas actually gave us about, I wouldn't even know how to estimate an amount, but I have five kids, so he brought Christmas gifts, brought food, he brought necessities and things like that.

[6:04:00 PM]

So as far as his integrity and the kind of person that it seems like they're attacking as far as this issue is concerned, I've worked for him, worked with him, and he's done some things personally for our family that I think he's a very outstanding guy and if he did something that was wrong, trying to get this established and set up before he got the permits, he's trying to rectify it now and even as a side note, even when our guys were there removing the tree, we had neighbors that were constantly kind of coming by and asking questions about what the guys were doing there and taking pictures and different things like that. I don't know the names of the individuals that were doing it. I just know our guys were very uncomfortable and the stop work order for this, there's some odd jobs that he's had for us designed to do for this particular assignment that it's put us in a financial situation as well because for him having to stop we had guys that had to be paid, regardless of how much of the work got done and we're in a holding pattern with this, but just as far as I'm concerned he does do what he say he's gonna do and does try rectify some of the problems. As far as the tree removal was concerned it was above board and all according to the permit allowed to be taken as far as that tree removal was done. Thank you for your time. That's all I have to say.

>> Mayor Adler: Thank you very much. Any questions? Thank you. Mr. Hadad? You have three minutes to rebut and close.

>> Thank you. As I mentioned when I started this presentation, there's been a lots that transpired in the last eight, six, eight months. One thing I'd like to note is the inconsistencies in the information Mr. Thompson that is come up and said. He's done this regularly with us. And since the issue of integrity came up it's unfortunate that Mr. Thompson chooses to misrepresent facts but the good news is that we have evidence.

[6:06:03 PM]

We have pictures here of other trees that he's also cut down in his driveway. Fortunately we're lucky for Google maps keeping these pictures, if I may pass them around. I am disappointed by Mr. Zimmerman and Renteria who were laughing and made their minds up before they even had a chance to hear all the speakers but terry erin came up here and said that the only issue here is that Mr. Thompson failed to get the right permits. No. There's an issue about whether the requirements under the land development code and international residential code have been met and the board -- and the building and fire code board of appeals found they had violated those ordinances. But as an accommodation so that he wouldn't have his structure taken down, the board changed hurry position. But it's on the record that the building and fire code board of appeals found violations. The building and fire code board of appeals cannot waive violations of city ordinances. They can't. Mr. Erian also said that he stopped doing short-term rentals but as recently as in the last month he's had a short-term rental at his property. As far as the fire violations at his property, I think it's an indication of future violations that may occur at the property but really what we're here is not about the aesthetics, we're not here about whether he's a good neighbor or bad neighbor, we're here about the safety of the structure that was built on a foundation that doesn't have any design plans, that has failed to get the proper certification for its safe - for its, I guess, the design requirements to make us -- make you comfortable that this structure has been built properly.

[6:08:06 PM]

The metal building structure is being modified. But what I'm surprised by the city is that there giving a permit for a structure that keeps changing. First it was an attached garage. Then it was a detached garage. Then it's going to have a roof but it may not are a roof. It's a breezeway. I don't quite understand how the city can grant a permit and have the city feel confident that that permit is meeting the development code when it keeps being a moving target, which is what Mr. Thompson has done throughout the process. One thing I'd like to note is the city has failed to point out that we filed two notices of appeal. We filed one when the building with -- we discovered that the building permit had been filed.

[Buzzer sounding]

>> -- In January. Mr. Thompson revised his plans and we filed a subsequent appeal and none of those issues had been dealt with at this hearing because there were additional issues that we raised in that appeal that it appears that the city has not brought up to your attention. It was filed February 23, once we discovered that there were going to be modifications to the structure. If the property owner can change their structure, then the neighbors should be permitted to appeal in light of those changes. Our neighbors, our neighborhood association, allandale neighborhood association please with the city council do make sure the city staff understand their responsibility of enforcing these ordinances. It's not Mr. Erian's discretion to come here before the city council and tell you that something is an issue or it's not an issue. He did the same thing before the building and fire code board after peels after they had made the motion --

>> Mayor Adler: Thank you.

>> -- And seconded it he went it talked to --

>> Mayor Adler: Thank you.

>> They changed their decision. Please don't make that mistake.

>> Mayor Adler: Thank you for your time. Are there questions of Mr. Hadad?

[6:10:06 PM]

Ms. Tovo.

>> Tovo: Mr. Hadad, I think I heard you make a statement that I'm not sure I'm understanding. Did you say that the board -- the building and fire code board of appeals did not find the structure compliant with technical codes?

>> It did not. Fact Mr. Ott made a motion that there were violations. Mr. Canarde seconded that motion and then they closed the public hearing. Afterwards they modified their decision. I don't know if that's permissible. I'm not a land development attorney. I don't have the wealth of experience that Mr. Erian has. But I can tell you that this structure does not meet the international residential code provisions. Even the --

>> Tovo: Hang on. Sorry to interrupt you but I want to be sure that I am understanding. But they didn't vote. I guess I'm going toothed our after it to help us sort that out but you're sitting they modified -- Mr. Erian, I see that you have a response to this too so we'll -- maybe we can hear from everybody involved. Are you saying they modified the motion once somebody made the motion or they voted on it and came back later and reconsidered that motion?

>> The transcript that I have -- and I go -- I base all this on the building and fire code code board of appeals ordinance 21-21 that says the board may not waive a code requirement. So prior to closing the public hearing the board made a motion by Mr. Ott, seconded by Mr. Kennedy to uphold the appeal. That was us.

>> Tovo: Right.

>> And they asked other discussion and the response was no. Mr. Lloyd was not even there. So he wasn't there to give advice or not give advice. At that point Mr. Erian went and talked to empties Haught and Mr. Rinn proposed a different approach, which is even though there may be violations that instead of demolishing or disassembling the structure, then perhaps the stop work order should remain and Mr. Rinn should research whether the foundation was properly built.

[6:12:18 PM]

Two issues there, one is the foundation, whether it was properly built. You can take either Mr. Tucker's letter or listen to miss Reynolds' presentation, but ultimately this prefabricated metal barn is not supposed to be moved and the city has not received an adequate reassurance that those modifications are safe. And in fact the notice on the actual document for the refabricated metal barn it says no modifications. It may be a danger to the public. I don't know if I answered your question, but the -- it is -- there is an audio tape of the hearing. There's also a transcript of it, which I can e-mail to you.

>> Tovo: I'm trying to get clarity on how they voted on it. But it sounds like what you're saying is at some point before they voted Mr. Erian suggested a different approach and that was -- before they voted?

>> Yeah.

>> Tovo: Mr. Erian, is that your recollection of the event as well?

>> There was discussion on different motions. The only one that they voted on was -- and it's in that document that I handed you, which is the decision sheet signed by the chair, Alan Schuman.

>> Tovo: I handed mine down.

>> 6-0 vote supporting the building official's decision.

>> Mayor Adler: Any further questions?

>> If I may present the plat restrictions. That's a side bar issue I think the city ought to look at on behalf of the neighborhoods.

>> Mayor Adler: Thank you. Is there a notion close the public hearing? Empties Houston, second Mr. Renteria. Any objection to closing the public hearing? Hearing none, public hearing is closed. Someone want to make a motion? Mr. Renteria?

>> Renteria: Mayor, I make a motion to deny the appeal.

>> Zimmerman: I'll second that motion.

>> Mayor Adler: Motion to deny by Mr. Renteria, second by Mr. Zimmerman. Is there any discussion?

[6:14:20 PM]

Mr. Renteria?

>> Renteria: This is a technical board that -- and, you know, the building and fire code board after peels, they were just making -- this whole -- it's -- the whole appeal is whether, you know, if the structure was in compliance with the technical code in which the board did find that it was in compliance and that's the whole argument, is nothing else about trees or anything else. So that's why I made my motion.

>> Mayor Adler: Any further discussion? Ms. Pool and then Ms. Gallo.

>> Pool: So a vote to deny would be a vote to allow the structure to remain and a vote to approve it would be to remove the structure? And I will be voting to support the neighborhoods, Mr. Hadad's appeal. I think given the situation with the restrictive covenants and the neighborhood plat restriction that's the rest of the neighborhood has been complying with all along, that whether the city considers an arbiter in that or not, I do wish to show my support for the road that the neighborhood and the community have been traveling along this entire time. I do have here the highland park deed restrictions from plat book four, page 299 and it goes into considerable specific for three pages on easements and

the type of construction that shall be required and minimum setbacks and how garages and porches should be addressed or not. And this has been -- this information is available to everyone who has purchased in that neighborhood.

[6:16:22 PM]

[Applause]

>> Mayor Adler: Ms. Houston?

>> Houston: Thank you, mayor. I'm going to be voting for the appeal and I'm going to be voting for the appeal because I understand how people come and build things in neighborhoods and don't get permits. And I know that's not the issue, but I understand what that feels like in neighborhoods, and it's happening all over my district, and they go, oops, I'm sorry, I didn't know I needed one. And there's nothing that can -- that can be done. And so we've had one other case like that, and we went ahead and supported that -- I voted dominance one and to be consistent I'm going to vote for this one as well.

[Applause]

>> Mayor Adler: I'm going to vote in favor of the motion. This is a hard case. When you hear everything that's been happening in this neighborhood, it's real unfortunate that you have neighbors in a neighborhood that get to this place. It sounds like there are lots of issues that need to be resolved, beginning with plat issues, which sound pretty extensive in terms of possible violations of the of the Platt or the restrictions and that's serious. The questions about future modifications of structures that have -- that exist, the questions about short-term rentals and noncompliance with ordinances associated with those, the question of whether or not trees have been taken down on this property that should not have been taken down, the issue of fires and fires in a way that requires the calling of the fire department.

[6:18:30 PM]

Those things all weigh hard as they would weigh, I think, on any kind of neighbor in a neighborhood. But I go back to the question we asked in terms of what is the standard that we apply. The standard as I understand it as we sit here as an appellate body doesn't let us consider those things, and I know we've spent a lot of time discussing those things, but as I understand our legal charge, those are -- as much as we might want to, those are things that we can't take into account. And the question actually is pretty simple, is whether or not this structure, as it is set out, would comply with the code that we have and I haven't heard a way in that it doesn't apply. We have ways that we check in this city with drop slabs, and -- with respect to slabs and if we don't like the way our city is checking with slabs we should pass an ordinance that says you can't check for slabs that way. But we can't pick and choose how we check slabs depending on how good or not good we think any particular neighbor is. So for the reason that I think that we are -- our direction in this -- discretion in this instance is very limited, I don't think that there's a choice but to vote in -- against the appeal and in favor of the motion to deny the appeal, but I wish the parties god speed in getting this -- the other issues resolved forums where they are more appropriately resolved. Further discussion. Empty Gallo.

>> Gallo: This is a really, really case for me. I appreciate everything the neighborhood has said. Many of you may know or not know but I actually grew up on ridge oak in highland park express attended highland park elementary.

[6:20:37 PM]

I love that neighborhood. It is very near and dear to my heart. What I struggle with in this is I understand

your concerns. I expect neighbors to be good neighbors, and the thing that I'm hearing here is that there's some concern there and that's not appropriate, and would I say this to the owner of the property, that it sounds like you think that you have reached out, but I think to live in a neighborhood like this you've got to be a good neighbor and I want -- I would really like there to be more of an effort there. We only have good neighborhoods when everyone works together. But as the mayor said, the problem with this is it's an appeal, and what we heard from our legal was that it's limited to whether or not the permit complies with building codes, not the zoning codes. And one of the things that I've heard from the neighbors is that there are lots of areas that we need to address that were policies that were put in place by former councilmembers, and I pledge, as we already have talked about, making sure our ordinances and our codes and our building departments and our code compliance departments operate effectively to make sure that our neighborhoods are protected. We have lots of areas that we need to work, but what legal is telling me, that there is only one way to determine a decision on this case, and it is to vote to deny the appeal. It breaks my heart, because I love this neighborhood and I've been to neighborhood associations, but I'm hearing from legal that that's the basis that we have to make this decision. And I'm sorry that's the basis that we have to make this decision, but it sounds like, and I think the mayor said it really appropriately, that our hands are tied on this. Now, having said that, please know that I will work with the neighbors, all of the neighbors, if there are continued problems with this property. And I'm hearing that there are potential problems with this property and the owner. So please know that you will have an open door.

[6:22:40 PM]

I will be an advocate for and you this is not going to end here. We're going to make sure that everything is in compliance as we deem the compliance to be. So I apologize for what my vote is going to be, but what I've heard from legal is that our hands are tied and this is what we need to base our decision on.

>> Mayor Adler: Any further debate? Ms. Tovo?

>> Tovo: Quick question for our staff. I apologize I was off the dais during some of the time where you were talking about the -- in particular about deed restrictions and I caught most of it but I'm not sure -- I caught most of it back on the TVs but I'm not sure that the question was raised and asked of staff about how the council resolution related to deed restrictions plays into this discussion. I don't have it in front of me but there is a council resolution related to deed instructions, restrictions, and I believe it says something like the council will not approve a zoning request that vitals a deed restriction. Is that -- is my memory of that correct?

>> Yes. There was a deed restriction I believe that was from the late '80s or early 1990s, council resolution that basically commits the council to before you grant zoning cases, before you grant zoning to properties, to take account of the deed restrictions so that you don't create situations where regulations permit something that deed restrictions don't allow, but that resolution speaks only to the council act being in its capacity legislatively when approving or denying zoning cases. Today, in this matter, you're sitting in an entirely different capacity, and I don't think that resolution has any bearing.

>> Tovo: Because the zoning -- zoning is the -- a discretionary -- is discretionary it's a -- just a different matter?

>> That's correct.

>> Tovo: Okay, thank you, Mr. White.

[6:24:41 PM]

>> Mayor Adler: Ms. Kitchen.

>> Follow-up question. So in this case if I heard correctly, if this -- although this may violate a deed

restriction, that's not grounds for simultaneous so we can -- for us? So our staff with go ahead and approve -- can go ahead and approve a structure even though it vitals a deed restriction? Because that would be the effect what have you said.

>> That is correct. The city does not have authority to consider deed restrictions in an administrative context. Now when the council is acting legislatively and you're adopting regulations or rezoning property from one district designation to another, you can take account of deed restrictions and that can inform your decision about whether to approve a rezone. But once the regulations are in place for a particular property and staff is administering those regulations or as you are today considering an appeal of staff decisions, at that stage deed restrictions legally cannot be considered. Sometimes also just a point of clarity, deed restrictions are sometimes memorialized on plats and so I think there was some discussion of plat notes, and I think in this case they were private restrictions that were memorialize on the face of plats.

>> Mayor Adler: Ongoing. Any further discussion? There's been a motion and a second to deny the appeal. All in favor of denying the appeal, raise your hands. Those opposed? There are three no votes. Pool, Houston and kitchen. And Garza is off the dais. How are you vote and abstaining, mayor pro tem abstaining. Others voted aye. The appeal is denied. The next item we have is back to items 11 and 12.

[6:26:45 PM]

The -- we're going to take that off the table. The matter in front of us is the possible postponement of this matter. If the applicant's representative could come down here. So the question that we wanted to know was whether or not the applicant in this case would be available on may 28.

>> Mayor, peter [indiscernible], I represent the owner of the proerty. My client is committed and is willing and will meet and work with the neighborhood but he cannot do it by may 28, redesigning plans or concepts for the property and then redesigning it again after meeting with them. He is committed to workin with them, and I think the key here for reasonably affordable housing on this property is a MIX of density and weighing the neighborhood's concerns and Mr. Peoples' goals. So it's supposed to find a happy medium, and my client just doesn't think that he can reevaluate the plans by may 28, but he is committed to working and meeting with them, whether in August or September, as they initially suggested.

>> Mayor Adler: My understanding from the neighborhood is that if it's not may 21 or 28 that the first available date for the neighborhood is September 10. Is that correct?

>> Very, very distant possibility for us. It's so far away, and I checked with all of my people, March 21 is good for us. March 28 -- I'm sorry, excuse me. May 21 and may 28 are good dates for us. There's quite a few people I checked with. I just wanted to say that we have not heard anything about these new configurations and no one has seen them and we've had five months, almost six months since the zoning application was filed, and following six months of discussion to see new configurations, and I believe that we have -- we should move ahead in a timely fashion and be heard on the 21st or the 28th.

[6:29:14 PM]

I would ask for the applicant to please consider working with the neighborhood on this date, the 21st or 28th.

>> Mayor, council, I talked with my client. He is willing to work with the neighborhood but just can't make those dates work.

>> Mayor Adler: Thank you both.

>> Tovo: I have a question.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: Are we asking -- he said that he could be here on the 28th but that he can't have redesigned plans bit 28th. I mean, are we expecting that -- is this situation -- does anybody have more background on the information? Are we expecting him to have redesigned plans by the 28th or is that the first opportunity for council to hear this issue and the applicant can continue to redesign plans and work with the neighborhood as the process --

>> Well, we had initially requested a postponement to June 11. And when that date wasn't convenient or didn't work for the neighborhood, we are willing to work with them regarding other dates. What can be designed on this property is contingent upon the zoning that is granted. I know Mr. Blaker and Mr. Peoples had met with the neighborhood association through the end of 2014. We have gone through historic landmark commission and also through planning commission and we've been meeting with staff, we've been meeting with councilmember Houston's office and getting input and understanding what is the council's wishes for reasonably affordable housing on this site, and what may be appropriate density. But it takes time to -- some concept plans have been done, but it takes time to reconfigure after planning commission and after our meetings.

>> Houston: Mayor?

>> Mayor Adler: Ms. Houston.

>> Houston: As we've talked about ever since you started on this project, the people you need to be talking to are the neighbors, not me, not me and my staff.

[6:31:20 PM]

It's the neighbors and that has not happened. And so I'm not -- I have no assurances that that's going to happen this next time. If -- because I have a motion ready for tonight, but because, you know -- I've tried -- I try to help people.

>> Right.

>> Houston: -- Work together and be good neighbors. And I want to be clear. This is not affordable housing. He use that's term, but that is not what this is. This is luxury housing for people who can't afford to live in downtown Austin. So let's not be fooled by that word "Affordable." So, you know, if you all can meet on the 28th and then just come and talk about what that this structure you're going to talk about with the neighbors, that would be a good step and I would be waiting to hear you say we could come on the 28th, we could postpone it to the 28th and then everybody could show up and then you could start your process. This has been going on for a long time.

>> I understand. I was hired on this project in March of this year and I understand -- I understand that Mr. Blaker and Mr. Peoples had met with sweet hill through the end of 2014. And I'm here today telling that you we will have discussions going forward, but we can't do it by the 28th.

>> But you can come back -- we can postpone this matter to the 28th when you can come back and in Ernest start those conversations? That's what I'm asking, can you do that? We can postpone it to the 28th and you'll come back and then y'all will start having those discussions?

>> I'm not -- I mean, if we come back for first reading on the 28th, then we have to go through this and have a vote. I don't think we can resolve all of our issues by the 28th.

>> Mayor Adler: Could you have initiated conversations?

>> Yes.

>> Mayor Adler: Advanced the ball by the 28th?

>> I mean, we can do that and I'm here telling that you if given the opportunity we will.

[6:33:23 PM]

But we can't come back and have first reading at city council on may 28th. I spoke with my client, and he

said he just -- he doesn't think that's going to work. But we can try to meet with the neighborhood before may 28th.

>> Mayor Adler: That's the question. Would you want to have the opportunity to have two weeks to be able to talk to the neighborhood and talk to them about what you might be prepared to do or thinking about doing? I'm not sure there's an expectation you would have had it resolved by the 28th, but it would give you an opportunity to -- to demonstrate an intent to work out something with the neighborhood.

>> Well --

>> Mayor Adler: Then what happens on the 28th probably depends on what happens between now and the 28th.

>> Right, right. I mean, my -- I can tell you that, makers we will -- I will initiate and reach out to the neighborhood. I think by postponing it to the 28th, my client will not be here and ready to present as the applicant. I don't think that we will have made sufficient progress by the 28th. I think that if it were to be September 10 there's an opportunity. But I can tell you that if given the opportunity with a later council date, we still can reach out to Ms. Bbrinsmade before the 28th.

>> Can we hear from the neighborhood?

>> Mayor Adler: Yes.

>> Thank you. Respectfully, if -- I understand where you're going, and the neighborhood is very much in support of setting it for may 28th and giving them an opportunity to reach out to us during that time. I think if we are making progress and let me point out that we have a valid petition on this case and we are strongly convinced that the current entitlements with our urban home infill option that we adopted to have sufficient high density single family in our neighborhood, I think that if Mr. Susaro comes to us with a project that reflects those values and goals for the neighborhood, then I think we could come backant 28th and perhaps have something together, to say together to you, in agreement.

[6:35:52 PM]

I think the 28th is a viable date, enough time forever to us discuss and to come back and perhaps be able to say at that time wi both want a postponement because we are working together. If we are not, then we are

[indiscernible] To go.

>> Houston: Mayor, I'd like to make a motion.

>> Mayor Adler: Yes.

>> Houston: I'd like to postpone these two agenda items to may 28th.

>> Mayor Adler: Is there a second to the motion? Mr. Zimmerman. Any discussion? I'm going to support the postponement to the 28th. I don't think there's an expectation by the second that you will have resolved the issues. I think everyone understands on the 28th your principal will not be able to be here. But I think I will be voting for it in hopes that you have two weeks to sit down and to agree to some principles maybe with the neighborhood or some general parameters to the neighborhood subject to what's able to be proposed. But -- and I do that in part because I think that if we don't extend it to the 28th, it's just going to -- you're just going to lose it right now. And I think this provides you an opportunity maybe that you wouldn't otherwise have. Is there further debate or discussion on this matter?

>> Zimmerman: I call the question.

>> Mayor Adler: No debate. Go to a vote. All in favor of postponing this to the 28th? We have now made a special called meeting on the 28th so it's been filed. Those in favor of postponing to the 28th, please raise your hand. Those opposed. It's unanimous on the dais with Garza and Gallo off. Are those all the agenda items that we have? I think we're done. We stand adjourned.