

City Council Regular Meeting Transcript -3/24/2016

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[10:12:44 AM]

>> Mayor Adler: All right .ouncil, it is March 24th. We are in the Austin city council chambers. It is 10:12. We're at 301 west second street. Let's go ahead and take a look at the agenda. The consent agenda today goes through item number 16 --

>> Houston: Excuse me, mayor. Before we get started, does everybody know that yesterday was the mayor's birthday and he was over 60 years old?

[Laughter].

>> Kitchen: I think we should--

>> Houston: Let's all sing happy birthday to him.

♪♪ Happy birthday to you, happy birthday to you. Happy birthday dear mayor, happy birthday to you .

[Applause].

>> Mayor Adler: So I'm leaving this morning and Diane says do you think anybody will mention your birthday?

[Laughter]. And I didn't say anything, and she said, I hope so.

[Laughter]. Thank you all for that. Before we get into the agenda I think we have a few announcements as we start off. Mayor pro tem, did you have an announcement?

>> Tovo: Sure I do. Now I have one fewer. I wanted to let everybody know who is here that today is the first ever furs day, that is an event that our animal center is piloting and they have brought their vehicle with animals, puppies and dogs who are available for new families. So I would encourage all of you who are here to take a break from our council meeting and head on out to the van and visit with the animals.

They're a lively and very cute bunch. They are right now on the northside of the building on second street. There's a possibility they may move over here to this side, but again, it's a great way to relieve vet here today in our meeting and possibly find an animal that might fit into your family

[10:14:55 AM]

They'll be out there until 2:00 today.

>> Mayor Adler: Thank you.

>> Tovo: Thanks really to the staff and volunteers who made that happen. There was some logistical challenges, but I believe that they're hoping to be able to do this once a month on council days.

>> Zimmerman: Mr. ,I would also like a point of privilege along the same lines. You remember our pit bull shelter dog, Shelby that we had back in January of 2014? Shelby finally has been adopted by a young family in burnet county. It's been a long time. Shelby the pit bull is adopted.

>> Mayor Adler: And manager, do you have an announcement for us?

>> Ott: I do, mayor, thank you. An announcement that I'm really excited and proud to be able to make. I think all of us are familiar with the publication Forbes magazine and probably that on an annual basis they look across the country at best employers. Of course that's true this year and they recently announced after surveying some 5,000 employers that they found the city of Austin ranked 22nd among those 5,000. And among municipalities Austin is number one as a best employer. And councilmembers, mayor, we are getting something out to you this morning that gives a little more detail in that regard, but we are absolutely thrilled to receive such a high designation as an employer of choice. So just wanted to share that with everyone.

>> Mayor Adler: Thank you.

>> Houston: And I would suggest that we give the city manager and all the city employees who help make this city number one a hand.

[Applause].

>> Mayor Adler: That's good. All right. So let's take a quick look. Consent agenda takes us through items 1 through 16. We had some changes and corrections I'll read into the record.

[10:16:59 AM]

Item number two on March 21st it was recommended by the electric utility commission on a vote of 10-0, commissioner Norris absent. Item number 6 is withdrawn. Item number 10 is postponed until April 7th. Item number 19 has been requested for a 4:30 time certain. That's item number 19. Item number 46 is not

to conduct a public hearing and approve an ordinance. It's rather to amend a restrictive covenant. Item number 46. There were six boards and commissions nominations that have been provided previously to all the council offices, but did not make the backup. Building and fire code, board of appeals Allen Schuman nominated by me. Commission on immigrant affairs, crystal Gomez nominated by councilmember Renteria. He also nominates Natalie Kagel for the commission of seniors. Councilmember kitchen, Debra danberg for the ethics review commission. The economic prosperity commission is nominating Roberto [indiscernible] To the sustainability committee. Councilmember Houston nominates rayran Lawson to the communication commission. And Angela dejoyez to the small planning joint commission.

[10:19:01 AM]

And councilmember Renteria nominates Richard manez to the flood mitigation task force. That's item number 5. Is anybody pulling any of the other items that we have? We had also talked about the non-discrimination ordinance and the minimum city wage for all project items being pulled and set for 4:30. Those are items 14 and 15.

>> Kitchen: Mr. Mayor, I have an item off the zone is that's indicated for consent. Are you taking those now?

>> Mayor Adler: No, right now just 1 through 16.

>> Zimmerman: Mr. Mayor, on item 2 I would be okay just getting an email. Maybe I've already gotten one and I haven't found it yet, but I asked for more details on the power supply adjustment. So I don't need to pull that if I could just get an email with the information that was talked about Tuesday.

>> Mayor Adler: Okay. So it looks to me on items 1 through 16, the items being pulled, 6 is withdrawn, test is postponed to April seventh. Items 14 and 15 being pulled because they're being heard later in the day. Is there anything else to pull? On this agenda?

>> Casar: Item number 20 is related to 15 and I think they sort of come together so that's from the economic opportunity committee that's already on non-consent. Just to clarify that those two items are related.

>> Mayor Adler: When we pick up those we'll pick up those two and we'll put 4:30 for item number 19. Is that what you said.

>> Casar: 19 has been already set for 4:30. It's item number 20 that's related to 15.

>> Mayor Adler: Got it. So let's also look at that at 4:30.

[10:21:08 AM]

Anything else on 1 through 16 being pulled? The record should reflect that Mr. Zimmerman is abstaining on item number 8. Any other discussion? Yes, Ms. Troxclair.

>> Troxclair: I would also like to be shown as abstaining on item number 8.

>> Mayor Adler: Okay. Anything else? Is there a motion to approve the consent? Mr. Zimmerman. Is there a second? Mayor pro tem. Those in favor of the consent agenda please raise your hand? I'm sorry. Before we do that I think we might have someone speaking on the agenda. Mr. Pena, would you like to speak? I'm showing you as having signed up on item number 9. Also item number 12. And -- yeah, those two, 9 and 12.

>> Okay. Good morning, mayor, councilmembers, Gus Pena. This is having to do with the fire response times, including recommendation regarding timelines and funding mechanism of fire stations. I was given some erroneous information about the work session on -- actually, the public safety commission and I wanted to speak. We wanted to speak in favor of the additional fire stations throughout the city of Austin, and as you all know this is not the first time we addressed this issue. It was addressed when mayor Leffingwell was the city mayor. We're in support of that also. And I'm sorry, what other item, Mr. Mayor?

[10:23:10 AM]

>> Mayor Adler: It was also -- the two items I had were number 9 and number 12.

>> Number 12. Yes, sir, we're in support of that item to waive the fees. Churches right now are experiencing a big demand to help out the people in need, and so any money that they would have to spend on fees or whatever could be spent on the people that are needy in the community. So I want to thank y'all very much if y'all with waive or reimburse us the fees having to do with this. Mr. Mayor, briefly, I know there's an item on the agenda regarding discrimination here, but I want to say this. I still carry my id. I was a federal eeo discrimination complaints investigator with the department of treasury, collateral justice department. I want to say this, I like to commend people when they do good work and commend Mr. Casar also for working heavily on -- and I know the item is not right now to speak, but I might not be here. I need to go to the doctor. But I wanted to thank you for your advocacy on that discrimination barring employment, et cetera. And Mr. City manager, I wanted to thank you also because you've been a center proponent against any kind of discrimination in the workplace. I am -- I was 10 years as an investigator so I wanted to tell you that you have been very helpful in our situation and helping the conditions of the workplace of the people also. And I know you stand by -- against discrimination, whether it be male or fee male, but I want to thank you very much on public television. I was asked by my veterans, 6500 strong, Mr. Mayor, that we want to commend the city manager on his position on helping people fighting discrimination. Thank you very much.

>> Mayor Adler: Thank you. I would also want to point out that councilmember Gallo is off the dais today.

[10:25:14 AM]

She is attending a homeless housing -- housing homeless conference today. We've had a motion and a second to approve the consent agenda. Those in favor please raise your hand. These opposed? It's unanimous with councilmember Gallo off the dais. Do we want to have the -- before we go into the items that have been pulled, we have a morning briefing. Do you want to talk to us about the smart city challenge?

>> Thank you, mayor, council. Robert Spillar, director of transportation. You all know me. It is a real pleasure to be here before you today to tell you about something that we've been recognized for. I'm here to speak about the vision for a 21st century mobility system. It is the U.S. Department of transportation -- usdot's competition that we participated in with your approval. And the short of it is, let me get right to it, we won. We've been short listed with six other outstanding cities in the U.S. Working with the city manager and the mayor we thought it would be a good idea to update you on that achievement but also to let you know what's on its way. Just a little refresher course, the opportunity was launched back in November. It was a 40-million-dollar grant opportunity from the U.S. Government for a is not city, winner take all, if you will. That's very rare. It's the first time according to the U.S. Department of transportation that they've actually done this.

[10:27:14 AM]

There's another \$10 million that has been joined to this grant from Vulcan company, an NGO non-profit foundation that is looking to add \$10 million to this proposal. And there are a host of other partners with the U.S. Department of transportation that probably adds another three to six million dollars of in-kind services, everyone from Amazon web services to mobile I, which is a transit technology company. The smart city challenge is intended to help people of all ages and abilities travel and do their daily lives in a more efficient way. It has been designed to solve real problems like affordability in our community or access to jobs. Clearly one of the priorities of the usdot is to create ladders of opportunity for everyone. And then make sure that it's replicated across the U.S. I want to come back to the ladders of opportunity. You know, 50 million gets me really excited, but that's not the real opportunity here. The real plum, if you will, is the opportunity to develop jobs for manufacturing as well as assembly of these new technologies, - technologies, research and development in state of Texas. If you think about that the automotive industry created Detroit, and the movie industry created Los Angeles and the oil industry created Houston, we're poised for that effort here. Our next proposal, and the goal of the grant is to be outcome oriented so we're thinking definitely in terms of the potential users. I like to call them customers. That's a little bit different term for a lot of people in government, but it really is a focus on privatization and how we might spur the economy even further. Clearly it's to improve safety. You all know we have a safety problem here, a fatality problem here in Austin with regards to our mobility systems, but that actually is a trend nationwide.

[10:29:23 AM]

There's been a spike nationwide. And it very likely is due to the improvement in the economy nationwide. Here in Austin we have an unabout the rate around three percent, so as the mayor said this morning, it's red hot. But that creates a lot more travel and a lot more exposure to bad things. So with this new technology investments we can improve that safety and in fact mobile I, one of the partners that the D.O.T. Is bringing to us, department of transportation is bringing to us, whether do that on about 300 of our transit vehicles to create a new danger warning system on the vehicles where they can't see other vehicles or people. It will create a safer environment. Certainly to enhance mobility through improved travel information or various emerging mobility services this is much more what ride scout is even today, but they certainly hopefully will be one of our partners as we go forward. It is really thinking about having a packaged mobility service so that you can do everything with one portal if you will. Whether that is use a tnc or a taxi or rent a bike or transit or carpool or whatever, it would be a seamless transaction through your phone. So it's really exciting. And of course address climate change, this comes directly from the Paul Allen proposal. They are very interested in expanding electrification of vehicles. I think that matches up with the city's desire to create a more efficient transportation system. As you know, you can fill or charge a vehicle here in Austin for about five dollars a month and that's pretty efficient when you compare that to the oil and gas that you put into your car today. And so it makes it a very affordable opportunity if we can get good widespread use of those within our industry. So the seven cities, Austin, Denver, Columbus, Kansas City, Portland, San Francisco, what's amazing is actually something like 72 cities applied for this grant and again according to mark dowl at the department of transportation that's the good news story here that 72 cities across the united States are thinking about how to build those ladders of opportunity into this new transportation systems of the 21st century.

[10:31:50 AM]

I will tell you that the seven that were the finalists and I think therefore put together the best proposals, but I also think it's a Bettie rarefied -- pretty rarefied group of cities to be part of. And I think it's great that we're together with those cities. It really is a mark of accomplishment. The full proposal for in a sense the phase two, we're all at the same level right now, we're all inside the gate if you will, is due to the U.S. Department of transportation right before memorial day according to them. We have a very short time to get there. There will be a competitive interview. We believe that we will be allowed a team of five to basically pitch why Austin sometime in early June. We also have to develop a brief video about our proposal and what it is to explain that to a larger group of people. In the award of the first phase the department of transportation said we know you're competing for 50 million, but we want you to be collaborative because the goal here is to get all seven cities ready for implementation so that again even if we don't receive the \$50 million, we're already headed in the way to get ready for the 21st century in making sure that we connect all neighborhoods and communities to the internet of everything, if you will.

Just a few of our key partners. We have a number of key partners. We really have created a who's who of the organizations and institutions in this area. I'm really proud that we have the university of Texas and Texas A&M major research institutions on our team along with southwest research, which is a non-profit foundation out of San Antonio. We have in a sense created the new research triangle.

[10:33:57 AM]

Raleigh Durham no longer has that claim on if fame. We have a new research triangle in the new mobility concepts and so we're trying to build that as we go forward. So what is the proposal that we did? The approach is clearly user outcome based proposal. It builds interest with early adopters. We know here in Austin we have a lot of early adopters of technology so we designed vignettes, if you will, with regard to these new automated technologies so that those early adopters can see it, decide that's cool and want to help innovate and bring that to a reality for everyone. Certainly it pilots a variety of automated and electric technologies. The little vehicle you see down there is an automated transit vehicle, holds about 12. It's actually operating in France and the Netherlands, Netherlands in revenue service. In California it is operational in a private office park. They are dying to find a more public environment to launch that. They believe that the technology is ready for that. The entire proposal is designed to solve exiting mobility challenges -- existing mobility challenges while at the same time building experience to solve the 21st century emerging issues. For example, we know at our airport is getting ready to go under major construction on the arrival terminal, land side part of the terminal. We want to employ this type technology to get some of the people that normally would wait where all the construction is going to be out to a more remote facility where they can hook up with a variety of mobility opportunities while at the same time having that same hub, if you will, mobility hub, serve as a new park and ride for the 71 corridor where there's very few transit options from the bastrop 71 corridor. We have other vignettes that look at ways to take what are now suburban park and rides serving downtown and make them a reverse commute destination so we can connect people to surrounding employment areas.

[10:36:01 AM]

Think of the oak hill park and ride. There's lots of employment all around that, but there's no connectivity from the transit facility to that employment. And so it's a way to use some of these new technologies to get people from the park and ride either in an automated mode or semi automated mode to get you out and then return. And the third major vignette that we're building on is the idea of how do we expand capital metro service areas. You know their service is constrained by their jurisdictional boundaries, but are there new technologies that could allow us to reach out to, say, pflugerville just as an example where there's a huge need for transit access to the capital complex and downtown because the number of people that live there work downtown, but there's no real transit option. Could we using some of the share -- vehicle share apps create car pools or van pools on the fly, if you will, so that people can then come to a central place maybe in pflugerville, get on a shared van, come into town and then that van be used as an employer

circulator in downtown. So those are the three primary concepts. The technology, specific technology pilots are advanced roadway sensors. You know this is an area that we've been building out already so this would accelerate that. Certainly parking management, automated transit shuttles, app enabled car and van pooling as I mentioned, but also an informed traveler network. Creating that one system of management of our entire transportation system and then using that one system approach to develop a whole host of new travel information so that people are well versed in all their options as they head towards their employment facilities, wherever that may be. The concept is really built around a -- what we're calling the mic or mobility innovation center, that's really built around the transportation agencies.

[10:38:04 AM]

We're intent on using that to create a true two-way data portal. The amount of data that will be generated from the transportation system -- the amount of data generated now, whether that be video data or travel time information based on bluetooth, is enormous and we know if we can collect that into one place there are smart people out there that will learn new things that we didn't know about our mobility system and that's what the goal there is. Certainly a new regional operations center. We are in early discussions with our emergency management folks as well as with the university of Texas and other partners to perhaps create a backup to the emergency operations center that we have now. Gosh forbid a major tornado takes out our current eoc, this would give us a second warm backup, if you will, to immediately start operations from if we needed to. Electrified fleets. As you know, we've been working with rocky mountain institute on electrifying major fleets like the tnc fleet, transportation network companies, or the taxi fleet. We will continue in that vein including our own fleets of sedans. Automated and connected vehicles will be demonstrated through the hubs. And then the -- this all wraps together into a central system or data system. Letters of support. Thank you, council, for supporting us and thank you for helping us to add the wording in the resolution that you all passed that if we were awarded the 100,000 we could immediately accept and put it into use so that helped us to be able to sign an early agreement with the D.O.T. We'll be coming back to you for a budget amendment obviously so we can absorb that money, but it is a one-time grant lump sum with very few, if any, requirements based on it. There's some reporting requirements. We will deploy that plus donated private effort from a variety of our support team over the next few months to get as you can imagine the proposal and the video and so forth put together.

[10:40:20 AM]

There are other agencies and organizations across central Texas just came out of the woodwork to help us. And we got a lot of interest from local technology companies so this is just a smattering of the interest. I know my email is blowing up right now and my phone mail has messages. I had a call this morning from general motors, their head of electrification and the new mobile technologies calling to say how can we help. So we're really excited. We think we're one of the leading cities and one of the things that I think we draw that conclusion from is the outpouring of support from both local and worldwide technology

companies calling us and saying they want to be here in Austin. So we are very excited. This is our award. It was pretty amazing. The mayor accepted it on our behalf at south-by. It was a distinguished group of cities. Mayor, I discussed that, you did a great job in receiving it. You held your own against the other six. This is supposed to be a competitive cooperative event. Mayor, you said you had never been in a group where there was so much competition, but it was a very congenial environment. The mayor will be meeting with the San Diego mayor in March. There will be a scan meeting in Washington, D.C. Where we'll be sending a number of technical folks to really get a download from the U.S. Department of transportation. They are making the rules up on the fly. Literally that's what they told us yesterday. We asked the question and they said we don't know the answer. We haven't made that up yet. We'll talk about it tonight and get with you tomorrow. This is a very fluid process. The final proposal as I said is at the end of may, competitive interviews made in June and smart city announcement in the winning city in June.

[10:42:21 AM]

We're going to call the director of the D.O.T. Or the secretary and ask if he needed help with hotel rooms since it's so hard to find hotel rooms in Austin. But seriously this will be a tough competition so we're really excited. It would accelerate many of the things we're already doing. An infusion of \$50 million. We want to try to use that \$50 million should we win it towards technologies and not brick and mortar so we're looking to our partners to come on board to help us do some of those things. Specifically in terms of match, I know this is always a question with a grant, there is no match requirement on this 50 million, which is exciting. Now, that said they will certainly look at overmatches as a criteria, or not a criteria, but a credit towards getting scores to be the chosen city. And I will tell you we've had some pretty interesting offers from both Texas A&M as well as the Texas department of transportation on projects they're moving forward with that would be totally compatible with this that would allow us to claim a three to one match potentially on that \$50 million. So hopefully that will be persuasive. So any questions? That's the end of my presentation? Again, thank you for the privilege of pursuing this.

>> Mayor Adler: Manager?

>> Ott: Thank you, mayor. I wanted to take a moment to acknowledge rob spillar, our director of transportation and his team, my assistant city manager, Robert Goode for all of the work on this. There was a lot of work on this as well as other parties outside the city organization. A tremendous effort on their part that got us to where we are today. For me as city manager it makes me back to eight years ago when I arrived back in the city. I did not have a transportation department so when I think about that and that eight years later we stand in competition and in great company for an opportunity that's so great, that's really tremendous, rob, I appreciate you.

[10:44:27 AM]

>> I really appreciate that. Thank you.

>> Kitchen: Mr. Mayor?

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I want to echo that thanks from the mobility committee and from myself as the chair. It's been a very, very exciting effort and thank you to our mayor and to our city manager. This has huge implications for our city beyond -- as you know and as you've said, beyond just winning this grant because it sets us up as -- it will when we win, it will set us up as the go-to city for smart cities. And with this comes additional funding, comes additional opportunities and additional tools to tackle our transportation issues. So thank you very much.

>> Thank you, councilmember.

>> Kitchen: I know we'll all be very understanding of the time you all have to spend in the next few months. And try not to load too much on you because I know you already have a whole lot on your plate.

>> Thank you, that's very kind.

>> Mayor Adler: I want to reiterate as well the significance of what this is. You know, I think that this -- the grant it's not so much just the \$40 million from the department of transportation or the \$10 million from vulcan, making up the total 50-million-dollar grant. I think it really will brand the winning city as the city that has become the place for new mobility ideas. It's going to become the testing ground for those. It's going to pull a lot of experts and companies from around the world focusing on one place. I really think that this is something that will start the future of tech mobility in a very big way in this country. I think that whatever city is selected has a chance of becoming what Detroit is for building cars, for what los Angeles is for the film industry.

[10:46:30 AM]

For what Nashville is for music. I think put another way, if we aren't able to win this award, I think Austin becomes -- Austin becomes the capital of the future. And I think it's no less significant than that. Over the last couple of months, few months, I've had the opportunity to be in Washington with the secretary talking about this. We went through the effort, the staff at each stage has gotten me incredibly ready for my role in helping to pitch this in those conversations. And I appreciate that. Your team is great. I think the proposal is great. I would indicate to the council that the secretary has asked that I come to San Diego next week, which will be during a council meeting, and I hate to tell the secretary no.

[Laughter]. The meeting in April, the technical assistance meeting, mayors are invited to attend, to spend time with that group. They're not required to attend. I fear not attending and having Charlie Hales being there from Portland as the only mayor with all the technical people. I'm concerned about how that actually plays out if another mayor or two show up up. And then the secretary has asked me to travel with him for three cities in April to talk about this challenge and this program, which would have me missing yet

another council meeting in April. So if I'm doing that I could potentially miss three council meetings between now and the end of April. I'll post that on the bulletin board, but the conversations I've had with our staff and with other folks seem to indicate that if the secretary at this point in the process invites you to come and join him in a conversation about transportation, it's probably best I not decline the secretary's invitation.

[10:48:48 AM]

I think this is real significant, the room that we had this morning with the team that's picking it back up, the larger team that your office was convening had people not only from the institutions, the other governments, but from the companies in our town. I think we are in a unique place given the companies that we have here. My email is also blowing up and phone calls from folks that I am immediately referring to you, but reach out from Ford and GM and Amazon and Google and -- pretty much everybody who has touches -- touches mobility or smart cities is looking for a way to play and participate in this. So it is a -- it's a huge thing. I'll conclude with when we had the panel discussion during south-by with the secretary and the seven mayors of the cities, we were each asked to say why our city should be the one that was -- would be selected. I stayed as far away from I could about the catty things like Denver being under two feet of snow right now and not a real mobility test of any measure going on in that city for at least awhile.

[Laughter]. To not mention those kinds of things. I spoke mostly about our city and what I said was in Austin, Texas, our ability to be able to crack this mobility issue was existential. That our two big challenges, mobility and affordability, are tied with each other. And if we're going to save the spirit and soul of this city it's because of advancements and understandings in this area. And that I felt that while all the cities had a lot of things to offer, including us, it was more existential for us -- it was just existential for us. So I'm excited that the team is doing a great job.

[10:50:48 AM]

There's a tremendous amount of work that has to be done over the next nine weeks and I would point out to everybody that all the money that comes out of this has to be spent in a really short period of time. So this is stuff that the government is expecting to be on the ground, tested and piloted fast.

>> Within three years.

>> Mayor Adler: Okay. Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. Appreciate all these comments, of course, but once again, let me deliver a message from the extremely frustrated voters who keep answering the surveys by saying our number one problem is traffic congestion. We are decades behind in building out our highway system.

We're still the largest city in Texas without one discernible, decent loop, highway loop around our city. Frankly, I'm embarrassed at how far behind we are in hard surface roadway. And as you know, as an engineer, technology is great for managing the space, but if you fall behind and when you fall behind as we have in highway miles, there's simply no way you can catch up with technology. You've got to build roads and highways to relieve congestion. I'm skeptical that this program will do that. But once again from the people who pay the taxes and cast the votes, the reasons we're here, people are very upset that this city for decades has ignored building freeways and the infrastructure we need for our vehicle traffic. So I'm going to keep pushing for that. The voters are going to be upset when they see yet another program with more money being spent that doesn't put more pavement on the ground to relieve our crowded roadways. Very, very frustrating. I don't know what else to say, but the voters and taxpayers are very upset that we've fallen behind and we're not building more highways and roads.

>> Kitchen: Mr. Mayor?

>> Mayor Adler: Councilmember?

>> Kitchen: This gives me the opportunity, commitment, to remind folks -- and if you haven't had a chance to see this, our public conversation on transportation projects that we passed as a resolution in February, our staff has very quickly put together a process called mobility talks.

[10:53:08 AM]

It's a conversation cox it's speak up. It's a whole series of commission meetings. The committee will be working with our staffs and our districts to help reach out to people in our districts. So councilmember Zimmerman, there's a huge opportunity that kicked off on Monday to have all of our constituents talk about the needs in their community. So we can't do this with one thing. We can't only do this with highways and roads. Smart cities is a huge component that we need to pursue, but I also want you to be sure that you're aware of the opportunities for your constituents and all of our constituents to speak up about those local issues that they may have about their roads and sidewalks and bicycle paths and those sorts of things.

>> Zimmerman: Mr. Mayor --

>> Mayor Adler: Hold on. Councilmember pool.

>> Pool: I wanted to echo the comments by the mayor and pitched and thank the staff for putting the presentation together and it clearly stood above the other applicants. I disagree with councilmember Zimmerman's statements that austinites want more concrete to be laid down and they want more mile lanes. I don't think that's true. I think in fact this city recognizes the value in multimodal transportation options and I very much appreciate the leadership that comes from our transportation department and our folks who have put together the bicycle master plan and our urban trails master plan and all of the different ways that a healthy vibrant community gets around. So I understand that we will disagree on this, but I think that I speak for a large contingent, if not the majority in the city, and I think the rest of us

on the dais recognize that. And again, thank you to the staff and congratulations, mayor, on having the opportunity to represent the city and possibility bring us a return on investment which is more than a 50 million to one, right?

[10:55:12 AM]

It's going to be a very large return on investment that the city of Austin may receive should we in the end be successful in this competition.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I wanted to make a quick comment. It wasn't that long ago that the Austin water utility invited the public to come comment on stage two watering restrictions. I encouraged my constituents to make their voices heard on the stage two watering restrictions for the water utility. They did in large Numbers, overwhelmingly opposed it, and the water utility ignored them. So I just want to know if we have a survey and the people say we want more road miles built, are we going to do it? Because people are getting tired of being consulted only to have their opinions ignored. So at some point if you keep asking people for what they want, they tell you what they want and you ignore them, they will stop answering the surveys. So I hope that if we do the survey that we're going to pay attention to what people say when they tell us to build more roads because they've been telling us that for 30 years.

>> Mayor Adler: So I think it's important that people weigh in and we look at that and I think that some of the things that we've discussed and as you laid out last week actually have us improving the -- and adding to the road system and refining the road system we have in the city. But generally speaking, Mr. Zimmerman, I take a little bit of issue with the direction with respect to mobility. I know that it wasn't but a few years ago that I was involved in the process associated with widening highway 183 up through your district, put in tremendous number of new lanes out in an area. The number one complaint I hear that this road system that we dramatically improved is now congested and nobody can move on it. I think that the experience that we see around the world is that we can continue to add lanes and lanes and more lanes.

[10:57:19 AM]

And all we do is induce greater and greater demand. And those lanes become clogged and congested in a relative short period of time. Working on mobility around the city is going to require us to be more serious than just adding lanes and making the hard and difficult choices than just the easier kind of thing of adding additional lanes. We have to be smarter, we have to be more innovative. As I travel around the world and I see other cities and look at the cities that are doing something about mobility in their cities, are able to move people around, are able to promote economic opportunity and access in their cities, these are cities that did not limit themselves just to doing lanes. There are a lot of other things we can do, beginning with what we did last Friday or Friday ago where we had people staggering their work hours or

adjusting and telecommuting in a day where we had perhaps our very worst moment of traffic with the president motorcade here and it worked really well. My hope is that some time in the next really short period of time we can see as a city if we can actually do that on a day or a few days bunched together where we encourage employers to let people stagger their work hours, come in late, leave late, come in early, leave early or telecommute. What we hear is that if we can just produce 20% of the peak flow during that period of time that we would have free-moving traffic on I-35 and on mopac. And I think that's something we can do without costing anybody anything. But I think that we have to look at those kinds of things if we are really serious about doing something about mobility and affordability in this city.

[10:59:27 AM]

Any other comments on this? Ms. Houston?

>> Houston: Thank you, Mr. Spillar. I really like the idea of the mobility research triangle, having been to Raleigh Durham, I think that has a nice ring to it, and it includes San Antonio, A&M and Austin. That fits pretty G.

>> It's quite the feat, councilmember, since two of them don't even play football against each other anymore, to get the two of them in the same room.

>> Houston: I'm really interested in this because I think as Austin continues to expand eastward the lack of transit options are limited and nonexistent. And so the fact that we might have an automated last mile system so that people who are living in Harris branch have some transit options to be able to get into town and not be told to go to manor and catch the manor express and then come into town. So this is really exciting to me and I look forward to the next steps. So I won't be calling you either.

>> Thank you. It is very

>> It's more than just moving people. We have at least two grocery chains here in town that will deliver food if you order it in advance. Imagine those boxes of food coming in a yeti cooler, for instance, on an automated trolley or an automated vehicle and wait for you either at that transit intermodal facility or at your home. And be ready for you so that that's one trip you don't have to make.

>> Houston: I think the creative options are unlimited we just have to think outside the box.

>> Absolutely.

>> Houston: I'm hopeful.

>> Thank you.

>> Mayor Adler: Mr. Renteria.

>> Renteria: Yes, mayor. Thank you. In my district, we support mass transit. We overwhelmingly support the capital metro in the urban -- commuter rail that was established to Leander, and, you know, we realize

that, you know, if we don't keep up and plan for the future, we're going to get left behind, and I think that has been the problem with Austin in the past, that we haven't embraced the future and we still want to build roads, roads, roads, like it's going to solve our problem.

[11:01:45 AM]

I just recently went to a convention in Houston and let me tell you, it was the most -- I was just afraid because I had to cross over five lanes and it was bumper to bumper and my exit was just a mile down the road and there was no way people were letting me in there. So if we think that -- it took me 30 minutes just to cross over to get to that. So if people think that roads is going to solve our problems, try Houston for a week, driving that traffic, and you'll come back and say, hey, we need rail.

>> Mayor Adler: Anything else on this item? Thank you very much.

>> Thank you, mayor.

>> Mayor Adler: Thank you. Okay. Should we see if we can knock off some of the extent zoning matters, maybe -- consent zoning matters, maybe let people go. Is jerry around?

>> Mayor, he was here just a minute ago so I expect he'll be right back.

>> Mayor Adler: Okay.

>> Houston: I have -- mayor.

>> Mayor Adler: Yes.

>> Houston: I have two that I'd like to postpone so that's -- while we're waiting on him.

>> Mayor Adler: Okay. And the two that you want to postpone are?

>> Houston: Items 28 and 29 time certain April 7 at 4:30.

>> Mayor Adler: So let's -- where are we on consent.

>> Kitchen: I have one not to pull off of consent but just to read into the record some agreements that the developer and the neighborhood have reached into, and that's number 36. So we can stay on consent. I just need to make statements.

>> Mayor Adler: When we come to 36 let's go ahead and do that. Yes, Greg.

>> I slightly wanted to talk about --

[11:03:45 AM]

>> Mayor Adler: I'm trying to figure out what we can do on consent to knock off the agenda.

>> You want me to go through the consent agenda items.

>> Mayor Adler: Yes, please.

>> Let me start with the 10:00 items, item 22, mpa 2015-0014.01 located in the south east combined neighborhood planning area for 4501 east St. Elmo, change the future lane use map to allow mixed use/office lane use, consent approval second and third readings. Item 23 is c14 2015 0142, 4501 east St. Elmo, mixed use, combined district zoning and this is ready for consent approval on second and third readings. Item number 24, case mpa 2015 0002.02 at 901 Spence street. Staff is requesting a postponement of this item to your may 12 agenda. It was postponed by the commission to April 26. Item 25 is c14, 20150109, 901 Spence street, staff is requesting postponement of this item to may 12 agenda. Item 26, mpa2015005.04, south Lenox oaks on various addresses, bastrop highway and bastrop highway southbound. I understand councilmember Renteria is going to request this item be postponed to a specific date. I'm not sure what that date is.

>> Renteria: The date hasn't been decided yet but I would like to postpone it to April.

[11:05:45 AM]

>> Okay. The next regular zoning meeting in April is the 14th.

>> Renteria: 14th.

>> The related zoning case which is item 27, c14, 20150104 for various properties on bastrop highway southbound, again a council postponement to April 14.

>> Mayor Adler: The parties or the sides were all okay with that postponement.

>> Renteria: The applicant agreed to the postponement. We haven't reached a date yet on there so I just recommend that we --

>> Mayor Adler: Move to the 14th for now, subject to moving again or whatever.

>> Renteria: Correct.

>> Mayor Adler: Okay. So postponed to the 14th. Please continue, Mr. Guernsey.

>> Item 20a, mpa 20150023.01, located in university hills, I understand councilmember Houston announced that this be postponed to April 7. I know that the applicant is agreeable to that postponement. The related zoning case, case -- item 29, c14 20 active 0086, 447 turner lane, again, postpone this item to April 7. The applicant is growth to that postponement -- agreeable to that postponement date. Item 30,

c14-2015-01107, east state highway 71 eastbound, zone the property to limited industrial services, planned development or Lipa district zoning. The zoning and planning commission's recommendation was to grant the lipda zoning and this is ready for consent approval on first reading only, item 30.

[11:07:51 AM]

Item 31 case c14-2015-0119 for the property located at 1507, 1509, 1511, 601, shoal creek boulevard, staff is requesting postponement to your may 12 agenda. The planning commission postponed it to April 12. That's why staff is requesting postponement to your may agenda. Item 32 case c14-2015-0129 for the property located at 7804 cooper lane. This is to zone the property to family residence conditional overlay or sf-3-co combined district zoning as amended. The zoning and planning commission recommendation was to grant sf-3-co combined district zoning. I'll note that the applicant has agreed to limit the property to one driveway approach for motor vehicle access from the property at Dittmar road and staff has spoken with the legal department and that still can go on for all three readings with that additional condition. Item 33 --

>> Mayor Adler: By the way, when you say it's postponed, 31, to our may meeting is that may 12.

>> That's may 12.

>> Mayor Adler: When we postpone 28 and 29, councilmember Houston asked it to be set for time certain at 4:30.

>> Very good.

>> Mayor Adler: Please continue on. Sorry.

>> Thank you very much. Item 33, case c14-2015-0133a, 1204 San Antonio street. We have a neighborhood request for postponement of this case to April 14 agenda. The applicant is in agreement. So that's a postponement of item 33 to your April 14 agenda.

[11:09:52 AM]

Item 34 is case c14-2015-0133b for the property located at 1205 nueces street. The neighborhood requested postponement of this case. The applicant agrees to the postponement to your April 14 agenda. Item number 35 is case c14-2015-0139 for the property located 11a12 mill right parkway. Maybe, I understand we have opposition, citizens have signed up in opposition of this case so this would not be offered for consent.

>> Mayor Adler: Okay.

>> Item number 36, this is case c14-2015-0141 Aldridge condos at 2106 Aldridge drive and bluebonnet lane to zone to townhouse, condominium residence. The planning commission recommendation was to grant townhouse, conditional overlay or sf-6 combined district zoning and I understand there's some agreement, some denial conditions.

>> Kitchen: Yes. Shall I go ahead and speak to that, mayor?

>> Mayor Adler: We have four people waiting to speak. It looks like it will be pulled for that. There are three people speaking unless they're okay --

>> Kitchen: I think those three are developer related.

>> Yes, makes those representatives of the developer.

>> Mayor Adler: David king, did you want to speak on this if this is otherwise passing? Why don't you --

>> Kitchen: Let me read the conditions. Basically we received -- first off let me say that the developer and the neighbors have been working for a while on this and have secured some conditions in the past. So the neighbors broad forward some additional requests that they had. They're not in opposition to the zoning. They just asked for some additional requests, which the developer is saying that they can accommodate. I'll read those.

[11:11:52 AM]

So the neighborhood -- the neighbors asked for a requirement that guest parking and garbage pickup be provided on the property and not on Allwood and my understanding is the developer has agreed. The neighbors requested limiting impervious cover to 45%. The developers are telling us they can accommodate it to 49%, which I think is much better for the neighbors and I think is acceptable to them. It was -- and just to let you know that the planning had set it at 51% and the property actually allows 55% so the 49% accommodation that the developers can make is significantly less than what would be allowed on this property. So and it's my understanding that this is senate developers can accommodate. I've also spoken with Lorraine -- or my office has, and our understanding from her is that this is an acceptable accommodation. I don't know if she's -- I don't know if she spoke to everyone she needed to speak to but going down to 49% appears to work. Okay.

>> Councilmember kitchen, just to let you know, I informed David king of what you just said and he -- you okay?

>> [Off mic]

>> Kitchen: Yeah. Based on that I'm good.

>> With those conditions, mayor, we can do that case with all three readings, with the 49% impervious cover.

>> Mayor Adler: Okay, thank you.

>> So that was item 36. Let me continue. So item 36 consent approval all three readings with that limitation 49% impervious cover. Item 37, c14-2015-0153, I understand councilmember Casar has asked - - I think the parties are still discussing postponement of this case to may 12 agenda. So it would be a postponement, council postponement to may 12.

[11:13:59 AM]

Item 38 case c14-2015-0154 for property located at 1750 Elroy road. The planning commission's recommendation was to grant community commercial conditional overlay or gr-co combined district zoning. I'll note, mayor, that the applicant and the neighborhood have agreed to additional conditions and would consent to this -- stay on your consent agenda if I read some prohibited uses and one additional condition. This could not go for three readings today, only first reading, would have to come back to you. The additional conditions would be to prohibit bed and breakfast group one and group two uses, prohibit residential treatment and prohibit service station uses as permitted uses on the site and the food sales use be a minimum of 5,000 square feet. And with those additional conditions we could offer this for consent approval on first reading. Item 39 is case c14-2015-0157 for the property located at 813 north bluff drive. This is to zone the property to community commercial conditional overlay, neighborhood plan or gr-mu-co-mp to zone the property to townhouse condominium residence neighborhood plan or St. Six. The planning commission was to grant St. 6mp combined district zoning and this is ready for consent approval on all three readings. Item 4, for the property located at 8006 bluff springs road to zone the property to community commercial or gr district zoning, zoning and planning commission's recommendation was to grant community commercial conditional overlay or gr-co combined district zoning, ready for consent approval on all three readings. Item 41, c14-2015-0161 for the property located at 11 -- north Lamar boulevard.

[11:16:10 AM]

Staff is requesting indefinite postponement of this case. We would have to renotify and bring this back at a later date because of a mapping issue. You may have one citizen that would like to speak to this issue. I let them know staff would be offering this as an indefinite postponement --

>> Mayor Adler: The speaker signed up is clay chip Smith. If this gets postponed indefinitely you do still want to speak?

>> Skip it.

>> Mayor Adler: I'm sorry, I can't hear you.

>> Next time.

>> Mayor Adler: All right, thank you, sir. Please proceed.

>> Item 42, c14-2015-0165 for the property located at 5711 south congress avenue to zone the property to general commercial services mixed use neighborhood plan or cf-mu-mp combined district zoning. Planning commission's recommendation was to grant general commercial services mixed use conditional overlay or combined district zoning and this particular case I have another agreement for some additional conditions to be added and I can still leave this on consent with those additional conditions. They would be to prohibit auto repair, the auto repair use as a permitted use and prohibit limited warehouse and distribution services so those two uses prohibited, and that the first floor would be required to have a minimum of 3,000 square feet of retail uses. And with that I can leave this on consent for first reading. Item 43 is c14-2015-0166 for the property located at 2716 west William cannon drive to zone the property to commercial liquor sales, planning commission recommendation was to grant the cs1-mp combined district zoning and this is ready for consent on all three readings.

>> Mayor Adler: We have one speaker identified on this.

[11:18:11 AM]

Are you Fong this gets approved? Do you still want to speak?

>> [Off mic]

>> Mayor Adler: Okay.

[Laughter]

>> Citizen acknowledged they're okay with going forward.

>> Mayor Adler: Thank you.

>> Item 44, c14-2016-0002, 11125 Bradshaw road. Staff is I can postponement of this item to June 16 agenda. Zoning and planning commission, they postponed this item to their may agenda so that's why staff is requesting postponement of this to your June 16 agenda. 45, c14-2016-0008, 7809 old bee caves road to zone the property to sf-3-mp combined district zoning. Planning commission did recommend the zoning. It's ready for consent approval on first reading only. And, mayor, the remaining items, item 46 and 47, are discussion items and I believe we have speakers also that would like to address those items.

>> Mayor Adler: We did. So the ones that we are pulling then for speakers seems to be 35, 46, 47. Is that correct.

>> Yes.

>> Mayor Adler: The others are on the consent agenda?

>> Correct.

>> Mayor Adler: I didn't heard, 1930 is that first reading only?

>> Item 43 is consent for three readings.

>> Mayor Adler: Three readings.

>> I have a quick question mayor.

>> Mayor Adler: Yes.

>> Pool: Item 44, Mr. Guernsey, you said indefinite postponement, mapping error.

>> Yes, the map didn't collide all of the tract so we're going to go back and renotify. It was recommended by staff and commission but we need to bring that back another day.

>> Pool: Okay. So you think a couple of sunglasses we'll try to get it on for the next agenda.

>> Pool: That's what I needed to know. Very good. Thank you.

[11:20:11 AM]

>> Mayor Adler: 46, 47 are being pulled. So the ones that are being pulled are 202046, 47. Otherwise, the -- 35, 46, 47, otherwise items 22 -- items 22-45 are on the consent agenda except item 35. Okay. Is there a motion to approve the consent agenda.

>> Yes. Mr. Zimmerman makes that motion. Mr. Guernsey Renteria seconds. Any comments.

>> Kitchen: With the comments that --

>> Mayor Adler: A lot of them are being postponed.

>> And there are some changes I have read into the record.

>> Mayor Adler: And we're also closing the public hearing for those that are open now for public hearing for third reading.

>> Renteria: Mayor, I just want to make a comment on item 42 in little Texas lane commercial development. I really want to thank south congress combined contact team, you know, sitting down and working out with the applicant on these -- on this issue here so I know that -- well, my representative on the planning commission wanted to increase the commercial from 3,000 feet to 5,000, but we were fortunate enough to sit down and work it all out so I want to give special thanks to the contact team and the applicant on this item.

>> Okay. It's been moved and seconded to approve the zoning extent. Those in favor please -- I'm sorry? Yes.

>> Tovo: Mayor, I'd like the record to reflect my abstention from items 33 and 34. I haven't determined whether I'll need to recuse myself when those come back so at this point I'm going to abstain from the postponement.

>> Mayor Adler: Let the record reflect the same for me on items 33 and 34. With the same message that the mayor pro tem just gave. Any further discussion?

[11:22:13 AM]

>> Casar: Mayor, I'd like to briefly also thank the folks on item 37 who met a couple of days ago and are really close to hopefully making something work out both for the church and nearby neighborhoods so thanks to them and everything to agree to short postponement as we work that out.

>> Mayor Adler: Okay. Those in favor of the zoning consent agenda please raise your hand. Those opposed. It's unanimous with councilmember Gallo off of the dais. As I look at our agenda now, the items that are still in play are items 14 and 15, where we said we wanted to meet back at 4:30, non--- item 17, and we have 17-23 and then on zoning we have pulled 35, 46, and 47. The executive session and then the item that's set for public hearing after 4:00. So let's go ahead and start then with item 17.

>> Kitchen: Mr. Mayor?

>> Mayor Adler: I think you meant through 21, not through 23.

>> Mayor Adler: Yes, I'm sorry, through 21, that's correct. In that group 19 and 20 have been moved to 4:30. We're going to take now 17 and 18 and 21. Is there someone here on staff that can speak to bus the vacant position items or is there a motion on that?

>> Troxclair: I just wanted to see. I think we may have some discussion on 17 but I was going to see if we could take up 181st, the Austin energy general fund transfer that we discussed at length at the Austin energy committee meeting last week so I was hoping that would be a quick 2014 get out of the way.

[11:24:26 AM]

>> Mayor Adler: We have several people that want to speak on it.

>> Troxclair: Okay.

>> Mayor Adler: Hmm? Do you want to take that one before -- just quickly take care of 17?

>> Troxclair: Sure.

>> Mayor Adler: I'm fine. Call up number 18 and then we'll take 17 right after that. So 18 is the Austin energy general fund transfer issue. We have three speaks who want to speak -- three people signed up. One person wants to speak on it, Mike burnet. Is Mike here? Is Mike here to speak on this issue? Take your time.

>> Just because a simple matter, the Austin reality association had published that there was a 7% transfer average of true up until '98, '99, that number pretty well held until councilmember Zimmerman pressed to get a revision which I've been corrected is standing at 8.2%. Mr. Mayor you announced during last meeting you announced your intent was to push transfers from 14% to public utilities so I'm wondering why are we going through the process for paying for an investigation for an justification of raised rates given possibility that we're of course going to see significant increases in electric and water costs over the next period which then would represent a significant increase in taxation so that would be my question. I'm having difficulty understanding one, given your statement during prior council meeting why we would go through deliberations on this when it would appear the decision has already been made.

[11:26:27 AM]

So thank you.

>> Mayor Adler: I don't think any decision has been made.

>> Well, you made the announcement during the last council meeting there was agreement to take this to a 14% transfer.

>> Mayor Adler: No, I didn't say that. And if you heard that --

>> I beg to differ with you, sir. You did.

>> Mayor Adler: If that's what I said, then I misspoke.

>> All right, then my humble apologies for having misunderstood your intent. Thank you, sir.

>> Mayor Adler: Okay. Mr. Zimmerman.

>> Zimmerman: Mr. Mayor Mr. Mayor, what I remember of the conversation we were talking about the San Antonio electric utility, which is municipally owned, I think you mentioned they were around 14%, little higher than us but we didn't propose Chattanooga. We were mentioning that San Antonio was a little higher.

>> Mayor Adler: That is my recollection as well. Yes, Ms. Troxclair.

>> Troxclair: Just as a clarification that that's not an apples to apples comparison so I -- obviously we'll get into the details later, but --

>> Mayor Adler: We didn't have an opportunity to do it and part of that is the study that you're asking so we have more information and data. But I do recall mentioning that San Antonio was at 14% and they are. But I'm anxious to get the information and data so we can have that broader conversation. So there's a motion to -- Ms. Troxclair makes a motion to approve item 18. Is there a second to that? Ms. Houston seconds that. Is there any discussion? Those in favor please raise your hand. Those opposed. Mr. Renteria voting no, Casar voting no, Gallo off the dais, mayor pro tem off the dais. So I think that's six votes in favor. It passes. Now I take up item 17.

[11:28:32 AM]

It passes. 17 is the -- an ordinance amending the operating budget. I don't know if this is a finance person speaking to this or -- oh, ed, there you are. Is there a -- why don't you describe to us what number 17 is.

>> Item 17, there was a council resolution passed last year that directed staff each year during the month of March to return to council with a list of positions that have been vacant for in excess of 12 months and to give council the opportunity to deappropriate funds associated with those positions or to reallocate the funding associated with those positions. As of today, there are seven positions that should have been passed out this morning. A revised attachment of seven positions that fulfill that criteria. Having worked with the different departments, all of those positions are either in the position of being posted or are currently posted or in the process of being interviewed. They just haven't been filled yet. So staff's recommendation is not to deappropriate the funding associated with any of those positions or reallocate the funding associated with any of those positions. If that is council's desire you would simply withdraw this item.

>> Mayor Adler: Okay.

>> Pool: I'll make that motion.

>> Mayor Adler: Okay. In fact it just needs to be -- do we have to act on it? Do you act on a motion to withdraw?

>> I don't know.

>> Mayor Adler: When you come back and give the report if we don't take affirmative action to change anything it stands as it is. Is anyone recommending any action for us to do on this item? Ms. Troxclair -- what you said was handed out I don't think was handed out.

>> [Off mic]

>> Mayor Adler: What?

>> It was parts of the changes and corrections, late backup. If you have the initial version I can tell you there was three positions on the list we passed out Friday that have since -- we have job offers accepted for those three positions so I can just tell you the three positions no longer on the list if that's helpful.

[11:30:44 AM]

>> Mayor Adler: Does -- why don't you tell us what the three positions are.

>> On the list that was initially posted it's in the aviation department, engineer technician C and it systems senior, both have job offers that have been accepted and in the Austin transportation department has a job offer that's since been accepted since the time we initially put this list together.

>> Mayor Adler: Thank you. We will pass to the next item unless someone wants to take action.

>> Troxclair: I just had a question. So I was looking at this report of the percentage of citywide vacancies over the -- vacancies over the last year and it looks like we are about 2% -- we have a vacancy rate of almost 10% now, 9.9%. And that is 2% higher than this month -- than this time last year. I understand the -- of course when we pass the budget there's going to be a spike because we're adding new positions and it's going to take time to get those positions filled, but why are we -- why do we have a -- why is our vacancy rate 2% higher now than it was last year.

>> I think your explanation is half of the story, that typically -- not typically, every year when we adopt a budget if there's a large number of positions added in the budget I believe there was somewhere in the neighborhood of 370 positions added by council. Your vacancy rate is going to spike come October 1 because all those positions come onto the payroll system. One of the things council did in order to help to balance the budget is delayed the hiring of all civilian positions so you only put nine months of funding in the budget for any civilian positions and I believe police officers were delayed even longer than that. There was other position that's were delayed associated with the new central library so all the positions in the budget were delayed at least three months and so that didn't exist last year.

[11:32:47 AM]

So typically the vacancy rate will spike up and start coming down. That downward trend has been delayed this year as a result of the timing of the positions and the funding of the positions that were approved by council. We certainly anticipate, as we continue to progress with the year, we're going to see that vacancy rate now start dropping more rapidly, now that the departments can really start filling those positions or add it as part of the fiscal year '16 budget and I do believe around 7% is typically where we are by the end of the fiscal year and it will come back up and starting coming back down again.

>> Troxclair: Thanks. Yeah, when I passed this resolution it was just to make sure that we're paying attention to our vacancy rate and we're not having taxpayer money that's expended for a certain purpose and not have that position filled and not have those services which should only be, you know, critical positions to the city not being performed. And I don't see -- I do think that there has been some improvements made just based on the last couple of times we've had these lists. I don't see any vacancies

on this list that have been vacant, you know, three years, four years, seven years, and it seems like they are all in the interview or the hiring process. So I'm not going to -- I'm happy to support the motion to withdraw or to not push it this time, but I do think -- I mean, I know that -- I remember, mayor Adler, actually, during the campaign tanning about setting a goal of having a vacancy rate around 5%, and we're about double that. And I just -- although I think that my resolution did help to bring some attention to the issue and I think there has been some improvement I am still concerned about the -- our -- what seems like a high vacancy rate to me. So if there's something different that we're not doing now that we could maybe do in the future to help address that I would be interested in hearing from you and working with the manager on that.

[11:34:56 AM]

>> Mayor Adler: And I do thank you for your leadership in keeping this issue in front of us and in institutionalizing something that has to come back as it has. We're going to be entering into the budget process here in just a little bit and I'm sure that at that point, if it's a timing issue, then the vacancy levels should continue to drop and I think it's important that we touch base back at that point in time to see if in fact we're seeing that pattern hold.

>> I would remind council the second part of councilmember troxclair's resolution on this issue would have staff report back as part of every budget proposal with a list of all the vacant positions that are in the budget so not just the long-term vacancies but all the vacant positions so we'll have a report coming to council in August about where we are with our vacant positions and, again, I would expect that it's going to be significantly lower than 9.8% now that departments are really free to start filling positions. We'll still have some. You have to remember that some of the positions related to the library, for example, were delayed very significantly because that -- they're just not needed until the library is really getting close to being ready to open.

>> Mayor Adler: Okay. Yes, Mr. Zimmerman.

>> Zimmerman: Point of order. So is there a motion?

>> Mayor Adler: No. We're just going to go to the different item. The budget stands as it is if there's any absence of an amendment to the budget.

>> Zimmerman: I wanted to make a motion we remove two positions, the associate judge, looking at our backup material, page 1, the \$164,000 a year and also airport operations chief in the aviation department. I'd like to move we eliminate those two positions.

>> Mayor Adler: It's been moved that we eliminate two positions on that chart. Is there a second?

>> Troxclair: Can I can a question?

>> Mayor Adler: Yes.

>> Troxclair: Councilmember Zimmerman, can you go into a little bit more detail about why those two positions caught your attention?

>> Zimmerman: I could. One of them, the associate judge position, we were involved in interviewing some judges for the municipal court, as you ren, a few months -- remember a few months back.

[11:37:06 AM]

During the course of that conversation it was interesting because we -- councilmember Casar and pool and Houston remember, we had a discussion on this where one of the positions seemed to not follow the Normal procedure for posting, and so we decided not to recommend for that. And then later we found out that there may not be a need for that position at this time and we might bring it back later. So it's really the position is not needed and I think some of the comments here, some of the notes underscore that. The airport operations chief, it says this position has been reclarified so it's probably going to show up somewhere else on a budget item so it would be appropriate to go ahead and remove it from here because it's going to come back in some other form, reclassified. I think the notes underscore my main concerns for wanting to eliminate the positions.

>> Houston: Mayor?

>> Mayor Adler: Is there a second to the motion to remove these two?

>> Troxclair: I guess --

>> Mayor Adler: Seconded by Ms. Troxclair. Ms. Pool.

>> Troxclair: First of all, on the associate judge's position, we did not decide not to fill it. We know that there is funding available from a specific source and we were -- we had asked staff to go back and repost it and find -- and have funding assigned to that specific source. And there is a need for that position. And then, second, I would be concerned that council would be making decisions on things that we probably think or that we're feeling on the list without the recommendation and the backup from our professional staff telling us that in fact they don't need these positions. My experience is they do need the positions. It's a very difficult -- it's hard to get the best employees these -- best employees these days because our unemployment rate is so very low, 3%. So a lot of folks are being snapped up by different hiring areas and I would absolutely oppose removing any of these positions, particularly as we -- it looks like they are underway and our staff have not recommended that.

[11:39:14 AM]

>> Mayor Adler: Manager?

>> Thank you, mayor. With respect to the position in arrive area, along the lines of councilmember pool's comments, I would some concern about council taking that action to eliminate that position in the absence of an explanation as to the impact it might have on the airport's operations. Unfortunately, as I inquired, Mr. Smith isn't here. Is there anyone from aviation here that can speak to the impact that will occur if that position is eliminated?

>> Good morning, mayor, council. Mark Washington. We are looking for someone from aviation but I am aware that our human resources department has been working with the aviation on restructuring their operations and have done some extensive reclassification work to create that position and I know that that has been part of the delay. I don't know the implications if it were to be removed.

>> Mayor Adler: It's been moved and seconded to take those positions. No further debate -- those in favor -- I'm sorry. Ms. Tovo.

>> Tovo: Mayor, if it's in order I'd like to make a substitute order that we reject the ordinance amending fiscal year 2015-16 operating budget in the way that's been described in our backup.

>> Pool: I'll second that.

>> Mayor Adler: What's the motion? Sorry.

>> Tovo: If it's in order, I'd like to make a substitute motion that we reject the ordinance that's in our backup. Which would have the effect of --

>> Mayor Adler: It's voting no to --

>> Tovo: Voting no to the motion on the floor but also just clarifying what our position is generally on the -- everybody looks very confused and maybe not.

[Laughter]

>> Mayor Adler: Right.

>> Tovo: I'm type also just vote against the motion on the table but I would like to -- that's fine.

>> Mayor Adler: Let's just vote against it.

[Laughter]

[11:41:14 AM]

>> I have a question.

>> Mayor Adler: Yes, Ms. Garza.

>> Garza: If I understand our budget correctly, the airport is an enterprise fund so it's not like that money is going back to the general fund, it's just going back to the airport's fund. Is that correct?

>> That's absolutely correct. It would simply -- their budget would be lowered by that dollar amount and their ending balance would be higher by that dollar amount.

>> Garza: So if the goal is cost savings to taxpayers, it's not going back to the general fund.

>> No.

>> Mayor Adler: All right. Any further discussion on this?

>> Troxclair: Is there someone here who can speak to the municipal court position? Because it sounds like -- I mean, the explanation here just says requested a delay to the presiding judge and court clerk requested delay pending analysis of the court's needs.

>> Good morning. This position came about. We had a judge that retired and vacated a full-time position but came back part-time, designated by the last council. So that position is not fully vacant. There is interest in creating a juvenile judge position but when we spoke with the public safety committee, we're not certain exactly how much time is needed for the juvenile judge position. We don't know if that should be part-time or full-time. So the last discussions I recall were we were going to track it through the end of the school year to see how many hours that judge worked, what that caseload is what the financial impact is going to be, and then bring that back to the public safety committee.

>> Troxclair: Okay. So you would like to keep this position that's been vacant since December 2018 in the budget as a full-time salaried position for now?

[11:43:14 AM]

>> Yes, ma'am. Until we can do proper analysis of whether we need it and if so what we would need that we can present to council.

>> Troxclair: So would you -- I mean, what is -- you would opposed to us removing the funding for the position for now and if it is determined that the position is needed that could be added back into the budget? Later this year?

>> I would assume that is -- that would be fine. I don't know how difficult that would be either from our end or your end.

>> Mayor Adler: Any further discussion about taking out these two positions? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. So the point of -- I think what the discussion should be here is either we make it trivially easy for the city to spend money or we eliminate positions like this and say, look, let's go back through due diligence and make sure it's a position that we actually need and that's a good exercise, to have to justify spending taxpayers' money, in my opinion, is a very good exercise. We

should eliminate this position because if we truly need it we go through the process, we say we have to have it, staff can justify it, and then we can have a vote to put the position back in. So I guess it depends on your perspective. If you want to make it trivially easy to spend taxpayers' money never eliminate a position. If you want to be for fiscally conservative and say, look, we need to justify all of our employees we should eliminate these positions and recreate them as we need them.

>> Mayor Adler: Ms. Pool and Ms. Houston.

>> Pool: What I would say first is it is -- as we have repeatedly said, we've had this conversation a number of times already on the dais, it takes time, effort, and money to re-establish or to initially establish a position in the roster. It's not as simple as adding a name or job title in. There's a lot of work and analysis and review that goes on behind that so taking a position off of the roster isn't trivial because putting it back on is also not trivial.

[11:45:15 AM]

I will say if the position isn't funded the money isn't spent. Right? If the position isn't filled, I'm sorry, if the position isn't filled, it is funded but it is not spent.

>> Zimmerman: Mr. Mayor.

>> Mayor Adler: I'm going to let Ms. Houston go first.

>> Houston: Thank you. Judge, thank you for being here this morning and thank you for doing your due diligence to find out what the public safety committee asked you to do, is find out if that position is needed and then be able to bring back some data to talk about that. So I will be voting not to exclude that particular position from the vacant staff reports because I understand that you're trying to ensure that you get the right amount of data so that you know how much of that position is going to be needed.

>> Yes, ma'am.

>> Mayor Adler: My sense is that there are more than six votes on the dais to -- there are not six votes on the dais to do this, which makes sense to me, because I think it's important for us to look at vacancies and certainly at the level when we thought there were, you know, many, many of those, but I hope we're just not going to be doing this on a one-spot basis on something like this position is postured now. Is there any further debate on this issue? Those in favor please raise your hand. Troxclair and Zimmerman. Those opposed please raise your hand. The rest of the panel with Gallo and Casar off. All right. So we are not making any budget amendments. Ms. Tovo.

>> Tovo: Though I think there may be value in just voting -- if anybody is interested in this, voting to disapprove the ordinance that's in our backup if it provides any certainty to the staff who are trying to fill those positions about whether or not we're going to take this up at any further point.

>> Mayor Adler: Is it helpful, ed, if we affirm difficult say we're not -- affirmatively say we're not changing the budget.

[11:47:23 AM]

>> We're already not changing the budget.

>> Tovo: All right.

>> Whether you want to take that action or not.

>> Tovo: Okay, super. Thanks.

>> Mayor Adler: Let's go ahead and send the message. Ms. Tovo recommends we do not change the budget, that we do not -- that we reject the ordinance as proposed. Is there a second? Ms. Garza seconds that. Those in favor of rejecting the ordinance as proposed please raise your hand. Those opposed. Troxclair and Zimmerman with Gallo and Casar off the dais, the ordinance is defeated, rejected and overruled and a message sent. All right. Then that gets us past item 17. And we've handled then item 18. I think that gets us to item number 21, which is the park renaming. We have no speakers signed up on this. David king wants us to know that he is for this even though he's not signed up to speak. Do you want to lay this out for us real quickly. Wait, is there a motion to approve item number 21? Ms. Pool makes that motion. Is there a second? Is there a second? Ms. Garza seconds that. We have an amendment that's been handed out. Whose amendment is this? Ms. Houston, do you want to talk to bus the amendment that you're making?

>> Houston: Thank you. This item originally came up on our February 25 agenda. It was item number 54 and we postponed it that day until today.

[11:49:27 AM]

I posted on the message board these -- the suggested amendments and on the message board and you have it in your hands today. The aim was to specifically talk about cultural and geographic relevance, especially in the naming of park features and park facilities.

>> Pool: Mayor?

>> Mayor Adler: Yes, it's been moved. Amendment has been offered. Is there a second to the amendment? Ms. Pool seconds that amendment. Do you want to address it first and then I'll come back to Ms. Pool to speak? Your amendment.

>> Houston: The staff has done a really good job in trying to get us through this. It's taken some time. But as you look at the park recommendations, they did not talk about this cultural significance or the historic significance of either people or places or geography in that, and so this just says that there's some other things about rather than who gives the most money, whose name is well known in the community. It's -- so we just thought that was something that needed to be added to give more latitude when we name park features and park space.

>> Mayor Adler: Okay. Ms. Pool.

>> Pool: I'd just add a report from the open space environment and sustainability committee which councilmember Houston attended on the day we took up this change that staff has been working on for some time -- I think it predates this council being seated -- and it was postponed. We had some long-time park stakeholders with specific questions which have been addressed, and to the stakeholders' satisfactions, and I think we have staff here who may want to -- or can take the opportunity to just give a little additional information and maybe ask questions but the committee was voted in support of councilmember Houston's inclusions and passed this out from our committee back in January.

[11:51:29 AM]

Mr. Montez.

>> Mayor, councilmembers, Gregory Montez, parks and recreation. Councilmember pool, Houston, you're correct. We did receive the language you had submitted and we're fine with the language being part of the policy and procedures for features and facilities. We don't have an issue with that at all. So if you'd like to include that in your motion we're totally supportive of that. Any other questions I can answer?

>> Mayor Adler: Any questions.

>> Specific to the ordinance or anything?

>> Mayor Adler: It's been moved on the amendment. It's been seconded. Any discussion of the amendment? Those in favor of the amendment please raise your hand. Those opposed?

>> Zimmerman: Abstaining.

>> Mayor Adler: Mr. Zimmerman abstains. Ms. Gallo off the dais, the others voting aye. Is there any further discussion on item 21 before we take a vote in those in favor for 21 please raise your hand. Those opposed.

>> Zimmerman: Abstention.

>> Mayor Adler: Mr. Zimmerman is abstaining. Ms. Gallo off the dais. Others voting aye. Thank you very much. That takes care of item 21. 14 and 15 are going to be picked up at 4:30 together with items 19 and 20 because they were related. That gets us then to the zoning items that had been pulled, 35, 46, and 47. What about 35? Can you talk to us about that, lay that out?

>> Yes, mayor, council, Greg Guernsey, item 2020c14-2015-0139, zoning change request at 11812 mill right parkway.

[11:53:29 AM]

This is to zone the property to neighborhood commercial or Ir district zoning. The property itself is just under an acre. It's about 41,800 square feet in size, that's an interim zoning classification right now, interim sf-2, the single family classification. The planning commission did not recommend the Ir zoning, retail zoning. They did recommend staff-recommended zoning, the lo-mu, limited office-mixed use district zoning. Let me tell you a little bit about this property. It has -- was previously developed with a child development center. The building was burned and it's currently vacant. To the northwest and east of this property are interim zoned properties, interim single family zoning properties that are all developed with single-family homes. To the south is an existing convenience store and retail use that is zoned Ir. Lr-co, excuse me. There are several neighbors that were opposed to this zoning change request and because the property has an interim zoning classification it has the initial zoning classification of interim sf-2, it is not petitionable to trigger a supermajority vote. That's not to say the neighboring property owners don't have a right to petition against a zoning change but it would not trigger a supermajority vote of the city council to overcome the petition to rezone the property. The difference in what the applicant is asking and what the commission and staff has recommended does not allow for the retail uses that are found in Ir, lo zoning, the limited office zoning primarily allows administrative offices, professional offices, and medical offices.

[11:55:42 AM]

It also would reduce the amount of impervious cover from 80 to 70%, although the watershed district of the lake concrete watershed would allow a minimum minimum of 70 and that's what commission staff recommended. The neighbors as they come forward and I'm sure they'll speak to their position would be supportive of an no, which is a neighborhood office classification. It would allow maximum impervious cover of 60%. It would not allow for medical office and I think those are probably the larger differences. Building heights would also be limited to 35 feet instead of 40 feet, which was what the commission and staff recommended or what the applicant requested in Ir. So I'll pause if you have any questions. The applicant can come forward and make their initial presentation and then those in favor, those opposed, and then the applicant's rebull.

>> Zimmerman: Quick question, Mr. Mayor.

>> Mayor Adler: Yes.

>> Zimmerman: On the zoning and platting, I think there was an 8-2 vote. Is there somebody that could tell us what the objections were from the two persons who voted against?

>> I think they had a concern about the endensity of the zoning. Would probably be more agreeable to something less.

>> Zimmerman: Was that intensity concern over -- because I know this area and it was a day care, and --

>> Yes, it previously was a day care.

>> Zimmerman: When that thing let out everybody showedip at one time to pick up their kids. It was a mess at the corner. Are they concerned the traffic would be even worse with what's being proposed? Or .

>> I don't know the specifics. I know they had a concern about the intensity of the zoning. I know certainly the neighbors have a concern about the amount of retail that could -- the amount of traffic it would create, and I believe they also have a concern about the medical office, more traffic than an administrative office.

[11:57:46 AM]

>> Zimmerman: Thanks.

>> Mayor Adler: Council, we are almost at noon. And I think we probably should hear all the speakers together rather than heart attack one and taking the break. We have a number of folks that are signed up on citizens communication. At that point we would go to lunch, where we would hold executive session. So we can hear -- addressing both 14 and 15. If that's an okay way to proceed and then we'll come back after lunch and pick up these two remaining zoning cases -- three remaining zoning cases that we have. We'll go ahead and call then the citizens communication.

>> Zimmerman: Mr. Mayor, before we go on, could we maybe calculate a time certain for them to come back?

>> Mayor Adler: So we're going to start at 12:00. There are ten speakers so 30 minutes gets us to 12:30, little past. We go back into an executive session where we'll discuss items 14, 15. I would imagine it wouldn't be any earlier than 1:00, 1:15.

>> Zimmerman: I was going to say win 30:00 or maybe 2:00. 1:45.

>> Mayor Adler: Let's say we won't come back out any earlier than 1:45 and if those folks want to come back then they can but we won't reconvene earlier than 1:45. Citizens communication. Karen Flanagan, is she here? The next speaker is laura arbilla or arbilla. She would be on deck.

>> She is here as well.

>> Mayor Adler: Okay, thank you.

>> Y'all are being given something we put together. By the way, happy birthday. I heard it's your birthday.

>> Mayor Adler: Thank you.

>> I'm not going to sing.

>> Mayor Adler: Good.

[Laughter]

>> Mayor Adler: Don't mention the number either. That's very important.

[11:59:46 AM]

>> When is my timing starting because I'm three minutes.

>> Mayor Adler: You're starting.

>> I'm Karen Flanagan, native austinite. I met some of y'all when y'all were going for 10-1. I've lived in Angus valley for 18 years and I've told my immediate neighbors if you don't like me you're going to have to move because I'm not moving. I like it out there. I totally supported the 10-1. And I appreciate all of your efforts on the council. I had hoped 10-1 would be more than just representation. I wanted more resources coming our direction too. You know what? I don't think this is fair.

>> Mayor Adler: Which?

>> Is he listening? I'd like for him to listen.

>> Mayor Adler: You get a chance to address the council and the whole council is here.

>> Okay.

>> Mayor Adler: And everybody --

>> I just think it's rude when you're presenting and people aren't listening. Anyway, before we purchased our home, Austin experienced several heavy rains so before we committed to our home we made sure the waters stayed out of our structure. Our neighborhood has seen an increase in flooding and property damage in the last six years. I want to give you a time line of our history so you've got -- when we were annexed and when we started seeing flooding. So that's on that colorful side of the paper that y'all received. Notice in 1993 the city bought and removed a house on bull run to construct a drainage canal and now on that same street a developer just got the approval from y'all, from the city staff, to subdivide the property. The developer destroyed the original home and plans to build -- no, no, no, please don't. I'll tell you when to do that. One of the homes that's already been built has 200 more square feet of impervious cover than the original home. There are going to be two more homes built out on that

property. This is a picture of my farm which I have across the street. When it's dry you can see my driveway.

[12:01:48 PM]

When it's wet in October after that flood that's what I got to go see my chickens in. It was knee deep. And that was without anything built out over across the street. So I'm going to be dealing with probably three or four times the impervious cover that I had before. All right? Since 1992, the 625 homeowners in both Angus valley and champions forest have paid \$1.12 million through drainage fees, only to see an increase in the amount of property damage and flooding. This was not a donation. We'd like some infrastructure. And I'm going to show you some of the pictures that we have so now if you could do that. So this is one of the yards in Angus valley last year, after one of our heavy rains. We do not have curbs. We do not have a storm sewer. You can do it again. This is across the street from the creek that we have. You can't even see the creek.

[Buzzer sounding] It's a river.

>> Mayor Adler: You need to conclude your thoughts.

>> I am. Go ahead. There's the flooded home. We've got eight homes that flood. Okay. This is a problem. Union culvert, union pacific culvert. Don Zimmerman has been a heighth supporter, he's gotten meetings, the attention of union pacific. We need y'all to come together to help us. We pay dealer to live in north Austin through property taxes and all, we have to maintain our properties, but we need some help from y'all to help us get the culvert enlarged from eight to seven to 60 feet so we need y'all to help don Zimmerman support these efforts.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Next speaker we have is laura arbilla and Sylvia Mendoza is the next speaker on deck. You have three minutes, ma'am.

>> Hi. My name is laura Ar and I have lived in -- arbilla and I have lived in Angus valley for 24 years, if you could show the slide.

[12:03:50 PM]

I wanted to show a topographic map of the area. Angus valley -- oh, how do I do the -- I can't do it. Okay. Well, so I mark in there -- there is 183, union pacific railroad tracks in yellow circles I marked areas of trouble, one is union pacific culvert that she was talking about. You see a very faint blue line. That is the

creek that we're talking about. The topographic map it's hard to see but you can look at one that is easy to see, there's a red line that shows how the elevation works. So all of the homes either drain towards that creek or to another one called

[indiscernible] Creek on the north but much fewer goes there, it goes to this one. And that creek runs so that water has to be under the track and that's not big enough and that gets stopped and floods the homes across. We've already had a bridge that was the bull run bridge. Did she show you the bull run street flooding. That bridge doesn't have holes in it so the water sits on the street and cannot go to the creek. It's a mistake. Then there's some drainage on the other side of

[indiscernible] That allows water to cross under the street and get into the creek and that infrastructure is broken. Sometimes there's debris there, it's not maintained. The whole development that has occurred around the neighborhood, additional density added on this side of the neighborhood. Would you move on? So what we are finding is that there is a city of Austin trend, new construction, more impervious cover, more water runoff. In Angus valley the trend is more runoff compounded with poor drainage equals some flood. Next, please. So what I would like to request from you is to pay attention to immediate opportunities such as maintain existing infrastructure.

[12:05:55 PM]

The reason drainage easements that need to be dredged that have not been dredged for many years and there is, you know -- the dirt accumulates there and they don't cover as much water as they used to. There is also a retention pond on 3M that is not maintained and last time there was a big rain because the pond wasn't maintained that flooded the houses. There is also broken drainage pipes that need to be cleaned. We need to put holes in the bridge so water can midnight creek and we also need to work with union pacific to enlarge that culvert. Next, please. We talk about density and affordability in Austin and density has to occur after we have drainage infrastructure, not before. And adding density should not mean that destructive flooding occurs for existing structures. So we request the density -- is plan --

[buzzer sounding] What does that mean? Anyway if you go to the next slide, I just wanted to say that if we plan well, we can avoid this disasters and we can add drainage infrastructure before we add impervious cover and we install storm drains where they're needed and revise optimistic standards in the past have been incorrect and have caused development to be approved based on those incorrect data and now there is flooding. Also, all of the projects need to be approved a little bit at a time, one at a time and I think we should look at all of the area as a whole.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Sylvia Mendoza and Tim Tobin is on deck. Ms. Mendoza.

>> Hey, don Zimmerman. I'm so glad to hear you're as outspoken as when I heard you at the delegate convention. You're good.

[12:07:55 PM]

This council needs Ya.

>> Zimmerman: Before you go on I can't afford to give you a tip but thank you for the compliment. Thank you.

>> Okay. Council, I'm going to be jumping all over the place with this speech so try to keep up. I was torn whether to vote for trump or Cruz. Trump is just like me, he speaks his mind. He says what people are thinking but are too afraid to say. Not me. On the other hand, Ted Cruz while speaking at the executive education and conference center in 2012, evidence made me a promise to -- afterwards he made me a promise to my face and kept it since so he is a man of his word, true American, true citizen. You see my predicament now on who to vote for? Previously it had been easy. What else can I talk about to keep you interested? Oh, I know. The last time I was here I informed you I'm a U.S. Born American but I failed to tell you my ancestry that may be one of the reasons I talk the way I do, mean spirited, it's in my blood and I can't very well get a blood transfusion especially not know with the zika virus. In a, I'll keep my blood, jewish, Italian and hick because when you don't listen it seems all I have is unsophisticated hick ideas. Now, the citizens don't want to tell you this so I'm going to tell you. They've got three minutes. That's 180 seconds and they deserve your undivided attention. That means no talking, no doodling and no leaving like the city manager does. That's just so disrespectful. I'm usually here to get the media attention from channel 6 to educate and inform the public and the topic of illegal immigration is on at the federal level. So unless none of you up are are registered voters I need to listen. Trump [indiscernible] And so much for political correctness. I almost forgot, guess I got something else in common with deal, I'm over 60, but he's older.

[12:10:05 PM]

I'm on to New Jersey, I'll be back next year. Maybe not. Maybe sooner.

>> Mayor Adler: Next speaker is Tim Tobin. Thomas Reames is on deck.

>> All right. Tell me what you hit the stopwatch. The -- thank you, number 1, for the opportunity. However, I am happy to report that Mr. Joe silva with the city manager's office -- am I saying all that right? Does he work there? Is that his name, Joe silva? I believe it is. Anyway, he has intervned on my concern and I am going to exercise that option before I whine to y'all. So with that I got to go now and y'all have a great day, but thank you for putting me on the schedule. And I must say, Ms. Tovo looks a whole lot better in person than she does on TV. Damn. Hey, I got to go now. See y'all. Bye.

>> Mayor Adler: Next speaker we have is Thomas Reames. Nailah citizen citizen --

>> Houston: I don't think she's here.

>> Mayor Adler: That gets us then to Susanna Almanza.

>> Good afternoon, mayor, city council members, I'm Susan an all. We invite attorney celebrate the life of Cesar Chavez by attending the March, taking place Saturday, March 26, 2016, assembled at 10:00 at the library 1105 east Cesar Chavez street, March begins at 10:30 A.M. And ends at the mariposa center with speakers, music, dance, and entertainment.

[12:12:31 PM]

Cesar Chavez was born March 31, 1927 in yuma, Arizona. Cesar Chavez was a Latino farm worker, labor leader, civil rights activist and crusader for social change. He was cofounder of the united farm workers which advocates for better wages and safer working conditions on American farmlands. Cesar Chavez is more than a symbol and role model for farm workers. Cesar Chavez demonstrated the need for all working people to support those who are oppressed and exploited, working for dignity in the job, in the community, increasing democratic rights of working people, challenging the powerful and defense of the powerless. March 26, 2016, marks the 15th annual Cesar Chavez March in Austin, Texas. Austin residents have celebrated the life of Cesar Chavez and his selfful dedication for workers rights, economic justice, civil rights, environmental justice, peace, nonviolence and empowerment of the poor and disenfranchised. As Cesar Chavez once said we have a power that comes from the justice of our cause. So long as we're willing to sacrifice for that cause, so long as we persist in nonviolence and work to spread the message of our struggle, then millions of people around the world will respond from their hearts and in the end we will overcome.

[Speaking non-english language] And we will see you Saturday March 26. Thank you.

>> Mayor Adler: Thank you. Next speaker we have is John Moore. And then Michael Fossum on deck. Those are our last two speakers, council.

>> Mr. Mayor, I think it's a belated happy birthday.

[12:14:34 PM]

>> Mayor Adler: Thank you.

>> Councilmembers, I was representative of Mr. Houston Mccoy, the officer shot and killed back in 1966. I think there's been correspondence with your office where I sent the documents and my power of attorney and the cause that I'm here for today, if you're familiar with this or not, Mr. Mayor. You'd have to acknowledge that yourself. I'm not sure.

>> Houston: I can barely hear you.

>> Mayor Adler: Would you say that again?

>> I spoke -- is this better?

>> Mayor Adler: Yes.

>> I'm sorry. Thank you.

>> I talked with a Charles in your office.

>> Mayor Adler: Okay.

>> And I sent my power of attorney, the lawsuit that was brought against Mr. Mccoy from the city back in -- I don't recall the exact date but I'll have to regrets to a point of this -- regress to a point of this whole matter. When I first met Mr. Mccoy I recognized he was suffering with PTSD so what I did was I came before the city council at that time asking to have Mr. Mccoy evaluated for -- to see if he actually had PTSD and if there was anything the city could do for him. There was a stalling period that went on to the point where I started seeking legal representation for Mr. Mccoy. I could not get any attorneys to take on the case because they knew of his reputation as being an click. I -- click. I lodged at his health issues and everything else and determined that he was self-medicating rather than being just a drunk. So what I did is I took on the power of attorney and I had him evaluated at the VA hospital in Waco and they came up with a diagnosis of PTSD so we had something to work with at that point. After that I got him social security disability that was about a year and a half to do that once the obligatory or -- but the -- they turned it down automatically, and I had to argue before a federal administrative law judge in Waco, Texas, the social security administration.

[12:16:48 PM]

Then after that I realized that there was a provision in Austin for -- or, I'm sorry, through the state of Texas that -- for a workers' compensation commission because Mr. Mccoy was on duty tet of Charles Whitman's action and he was actually the first officer called on the radio to respond to the -- what was going on on the grounds. So once I got before the hearings there, the city was represented by the attorneys, Camila comes to mind as having been one of the attorneys who opposed Mr. Mccoy getting a workers' compensation commission award. However, after the hearing, the --

[buzzer sounding]

-- Did grant Mr. Mccoy his award for -- that through me off for a moment.

>> Mayor Adler: For his comp claim. You need to wrap up your comments.

>> Essentially what I'm here for is to just state to the city council and yourself, Mr. Mayor that I feel there's been a fatal flaw that the city of Austin's attorneys at that time took the matter to prevalent Mr.

Emergency -- prevent logical, they actually sued Mr. Mccoy for winning an award. I've never been able to understand that. However, they took it to the district court for a state agency award. The fatal flaw is that they should have taken it to a state court and that way there the matter would have been more in the proper jurisdiction than the way it's all turned out. Now, what I'm trying to do is to get the good council here and yourself to raise this back up to where Mr. Mccoy, who is now deceased, can posture, have this award given to him and then have the monies that was awarded to Mr. Mccoy given to his grandchildren really to be divided out to each of his grandchildren proportionately, without any prejudice.

[12:18:56 PM]

>> Mayor Adler: Okay. I'll raise that issue.

>> I will also leave a copy of my ebook on the whole tragedy, which is about 20 years of work.

>> Mayor Adler: Thank you, sir.

>> Thank you.

>> Mayor Adler: Thank you for coming. Last speaker Bev is Michael Fossum -- we have is Michael Fossum.

>> Good afternoon, councilmembers, my name is Michael Fossum. I live in south Austin. I'm here to talk about our coyote management program. Let's talk about the past, why was this program started. Travis county didn't have a management plan for 20 years prior to 2005. Then there was an increase in the number of coyotes attacking pets, showing increasing aggression. At the 2004 commissioners court meeting a citizen testified as they were discussing the plan, I don't want to be a prince in my own time and that's what I feel like now, that I can't risk taking my grandson into the front yard. I love nature and wildlife but our children have to be protected. I've heard at hill elementary the security guard is standing out in the playground scaring off coyotes while children come to school. Travis county started the management plan in partnership in 2005. What's the present state of the program? Well, it's not working. The tws management program is based on a peer review scientific method, and monitor increasing coyote grease. This doesn't work without the state and impacts Travis county as well as the city of Austin. No November 2015 animal service officer rerouted 311 calls to animal services and the number of 311 calls forwarded to tws dropped to almost nothing. The officer claims that the 2014 resolution justifies cutting off calls to tws but review finds no statement.

[12:21:04 PM]

In addition the interlocal agreement between Travis county and animal services or tws assigned by officer Hammond and [indiscernible] Requires all 311 calls to have it be forwarded to tws. The Travis county

and coyote cannot function due to the officer's actions. After ten years and backup and collaboration the officer did not notify Travis county, city of Austin or tws of fundamental policy change to our coyote management. The officer is treating Travis county with great disrespect. Travis county is a very important partner to the city of Austin. These are areas in which we cooperate to help ensure public safety and welfare of all our citizens. Let's look at future. Are we to return to the 2005 precoyote conflicts? If you look to the left there's a product you can buy today called the coyote desk to slow down lengths on coyotes by dogs until you can rescue them. Are we to have vests for the entire family as shown on the right? The alternative is to sportier current management policy as per the resolution, collaborate and ensure staff works with Travis county and ensure they don't change city policy administratively without council approval. Thank you very much.

>> Mayor Adler: Thank you. City council now going into closed session pursuant to the government code. We're going to discuss the following items. Item 14, legal issues related to the workforce discrimination harassment retaliation item and item 15 argued adopted wages to be paid on city projects. No objection. We'll go into closed session. We will not be back out any earlier than 1:45. Thank you. We're in recess

[1:31:19 PM]

>>> Austin city council meeting is in recess, 1:30 P.M. >>> >> >>> >>

[1:55:31 PM]

>> Tovo: Good afternoon, I'm going to call this meeting back to order. We have concluded our executive session, we are back in open session. In executive session we took up items, those are 14 and 15. I believe we left off with item no. 35 and we were just beginning the speakers. In just a minute, I'm going to call those. Our first speaker is Christie Bickel, thank you very much for waiting. I know that you have been here all morning and appreciate your patience on that front. Christie Bickel, is Larry Bickel here? How about [indiscernible] And Marilyn Ferrell. That being the case, you have 15 minutes.

>> I won't take that long. My anymore is Chris Christie Bickel, I reside in district 6. I'm here speaking on behalf of my family and close neighbors, owning property adjacent to the zoning request being decided today. I am new at this, I want to acknowledge all of the new help and advice I received from many members of our local government and organizations and including a conversation that I had with our councilman don Zimmerman. The property under discussion is currently interim zone sf 2, single family residence and was a home to a quiet childcare center for many years until it burned down in December of 2014. The childcare center provided a transition between family homes and commercial retail fronting Anderson mill, fulfilling zoning principle number 7 and the condition under which we bought our house. I can have the slide up showing some of the things that we were looking at as we were coming up with our

reasonings why we would prefer zoning in -- sorry -- no over lo. So as stated by the planning and zoning recommendations, no one is in favor of zoning the property to lr retail.

[1:57:37 PM]

Planning and zoning is recommended lo mu mixed use, limited office, which we agree is better than rail, however the neighbor -- retail, however the neighbors would like to suggest slightly more restrictive of no neighborhood office. The property is most suited to the no neighborhood office classification based on its location and prior acceptable use. This is an established neighborhood. Many of the people families affected have been here 40 plus years. My husband and I moved here 11 years ago. We have been raising our daughter in this house for the past eight. We love our quiet and safe neighborhood. We want to preserve that. For the last few decades, the childcare has set a precedent for an acceptable use of this property. It was a single occupant, single story building, with a light footprint on the property, there were no night and weekend usage hours. Which led to minimal noise and light pollution and added to the residential character of the neighborhood. A strong argument needs to be made to go against the precedent use that has been accepted for decades. Anderson mill is a quiet residential neighborhood with a diverse population, including many families with small children. There are two elementary schools within close proximity. Allowing retail or even certain office or even multiple office occupancy would impact the neighborhood with increased traffic and automobile exhaust, additional light and noise solution, and an increase in trash and the number of people loitering around the surrounding homes. All of which are detrimental to the character of our neighborhood. The city says this is an initial zoning case. The neighborhood would beg to differ in that interpretation. Because the land had a prior acceptable use. Just because a city has annexed the district, that should not negate the accepted use that was applied to the neighborhood.

[1:59:38 PM]

This is not a piece of property out in the middle of nowhere. It's our back yard, our immediate neighborhood and our front front door. I understand the valid petition is not a binding document in this case; however I would hope the council would take the opposition with the same significance. As indicated on the map I've collected signatures from a majority of the affected homeowners. I have also collected signatures of surrounding homes in the neighborhood who also hold the same position. The development of this property has the ability to affect people's daily lives and future property values. We're not trying to stop development of this property, but we are trying to protect our interests while maintaining the character and safety of the neighborhood. Based on prior use and published zoning principles, we think the property should be zoned N.O. Neighborhood office as this the preserves is kerik of the neighborhood, limits traffic. And if you have all any questions, that's pretty much what I had to say. Yes.

>> Zimmerman: Thank you for coming. I'm sorry for the delays in here. It's frustrating we haven't figured out a way to do time certain appointments. We struggle with that still. So I'm very familiar with that parcel of property. I've lived around the area 16 years and I remember when it was a day care center. There would be dropoff time in the morning and pickup time in the afternoon where that whole corner was a disaster trafficwise. I don't know how people even navigated it. But did you get any specific Numbers or estimates as to whether, you know, that traffic pattern overall would be worse or actually a little better than what it was as a day care?

[2:01:46 PM]

>> Well, so there is a traffic study that's included with the planning and zoning and I believe what it says is currently even with the uses that are there currently I think it's already over the projected allowed trips. They didn't do a study based on L.O., they only did a study based on Ir which increased the trip Numbers by like 50% which is 25% over the recommended for Anderson -- for millwright parkway, which is a residential collector street. So I agree the day care in the mornings would provide some traffic problems. I don't have any data because I don't have access to that kind of information, but we all know there is a traffic issue there and all the neighbors I spoke to and the first thing oh, the traffic along that street or, you know, people parking along their street. So we know there's a traffic issue there so limiting the intensity of the use, you know, allows the property to be used but it doesn't affect the neighborhood in a negative way any more than it already had as a day care.

>> Zimmerman: So the Anderson mill road, the real issue I think is Anderson mill road has gotten 30 to 40,000 cars. It's an unbelievable cut-through from people going from 183 over to 620 and vice versa because there's no interchange where you could go from 183 directly to 620 so everybody uses it as a cut-through. Is that fair to say that's probable the biggest issue is the Anderson mill traffic itself?

>> I don't necessarily think it's the Anderson mill traffic. There's a light there and I know along our street, you know, pile up 30 cars and we can't get into our side streets because of the number of cars on millwright trying to turn on to Anderson mill.

[2:03:51 PM]

I can't argue that Anderson mill is used as a cut-through, but I don't think that's the only problem with this intersection. I think it's also the number of people coming down millwright.

>> Zimmerman: And also finally, I guess this is part of the Anderson mill limited -- you guys are in the Anderson mill limited district, right?

>> Yes.

>> Zimmerman: What was the mud's position because it all used to be a mud decades ago. So did the mud have any --

>> I tried to contact them and they never contacted.

>> Zimmerman: I didn't hear from them either. I thought they might have some even put on it. I believe your hoa president Mr. Phil denning just lives a block or so down.

>> Yes.

>> Zimmerman: Did he have any feedback or input on it?

>> I spoke to him a few times. He even had a discussion with the owner of the property. He indicated he thought it would again possibly probably be a day care and my response to that if that's the case, then N.O. Is still the most appropriate because that's an acceptable use in N.O. But allowing the L.O. And the lr, there's so many other uses that we feel would be higher intensities that would not benefit our neighborhood. Especially retail. There's no need for additional retail. We've got plenty of retail on Anderson mill. It fronts a major -- you know, a larger street so it's more appropriate. And then offices. And L.O. Would allow multiple -- multiple occupants on the same property, which again depending on what those offices are could also cause problems because of their trip -- number of trips possible for the different types of offices. So, you know, limiting it to single occupant and limiting it to certain offices that are low intensity continues the precedent that was set and people bought their houses, they understood that's what the use was and I think that's more appropriate.

[2:06:06 PM]

>> Zimmerman: Final question. As far as the zoning and platting, I think the vote there was 8-2. And what was your viewpoint on that vote as to why that was an 8-2 vote or what happened there?

>> Honestly when I went to the planning and zoning meeting that was kind of my first foray into what's going on. Many thought the day care was going to be built so when we got the knots someone was seeking lr we started questioning that. I volunteered to go to the planning and zoning meeting. That was kind of my first foray into finding what's going on. I was hoping the owner would be there. He was not there. He's again not here today. So he's not reached out the the neighbors in any way so I was -- while I was happy that planning and zoning also did not recommend retail, I didn't know what L.O. Really meant until I went to research it. And the -- the 8-2, I believe said 8-2, the two who were against it wanted to add on a exclusion of medical offices because I believe medical offices as an office use has one of the higher number of cars associated with that.

>> Mayor Adler: Okay. Anything else? Thank you very much.

>> Thank you very much.

>> Mayor Adler: Is Rebecca Bingman here? Ms. Bingman?

>> She couldn't stay.

>> Mayor Adler: Okay. Those were all the speakers that we had. Is the applicant here? The applicant is not here. Okay. Discussion on the dais? Yes, Ms. Pool.

>> Pool: I'm interested in seeing if the dais would be amenable to amending the -- the ordinance to exclude medical office.

[2:08:13 PM]

That was a specific use that was brought up at zap and recommended if this does go forward a conditional overlay be added to exclude the medical offices.

>> Greg Guernsey, planning and zoning. If council desired to move forward with third reading to move forward we could amend the ordinance and still allow it to go third reading today.

>> Mayor Adler: What's your view on that issue?

>> Staff thought L.R. Was not appropriate. L.o. Would allow additional uses beyond L.O. -- Or N.O. With the neighborhood. One of those is medical office. The L.O. Also allows I believe like a convalescent center type of use and I believe communication services used for transmittal of telecommunications information. And so we would not object certainly to having the L.O., removing the medical offices isn't something that we recommended and isn't something that the commission recommended. I think it gives a little more flexibility for the use of that property given its location approximately to Anderson mill road. But council can certainly prohibit that as a use if it desires.

>> Mayor Adler: Would you speak to the -- your opinion on L.O. Versus N.O.?

>> L.o., as I said, has a little more flexibility for the property owner. It is a sight that would be redeveloped. It does back up to that convenience store. It is limited and they would still be limited by the watershed regulations. So regardless of N.O. Or L.O. They would have to comply with those. But the big thing about N.O., it reduces their ability to get square footage in the property. It actually cuts it in half. Right now you are allowed a floor to area ratio, F.A.R., .7 to 1.

[2:10:19 PM]

So for every -- let's say 1,000 square feet of site area you could have 700 square feet of basically square footage. The impervious cover also drops down to 60%. So it's more of a challenge for them. So the 70% which is allowed by watershed ordinance and it's also allowed by the zoning ordinance under L.O. So staff is recommending the L.O. Sounds like it would be more compatible for the neighborhood if medical

office was prohibited. The trips are a little higher for medical office. But the site development standards are more favorable for redevelopment of that site.

>> Mayor Adler: Okay. Further discussion? Ms. Houston and then Mr. Zimmerman.

>> Houston: Thank you, mayor. Mr. Against I, has the -- Guernsey, has the developer been meeting with the people who actually live in that area on a regular basis? Because I'm very concerned about us making decisions when he -- the developer has not been willing to meet with the people who live there.

>> Well, I understand they did meet once.

>> [Inaudible].

>> Well, the applicant as I understand didn't appear as commission, hasn't appeared tonight, has not amended their request. So I'm not sure what to tell you, councilmember, if they haven't met with these neighbors and maybe met with someone from the neighborhood, has not amended their request, has not shown up at the hearings. All I can tell you is they filed the application that's before --

>> Houston: So we could amend it anyway way we wanted to benefit the neighbors.

>> Yes, council has the ability to approve something less intense or deny the application. We would recommend that you approve some permanent zoning on this property since it's interim classification.

>> Houston: Thanks.

>> Zimmerman: Mr. Mayor?

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: I would like to make a motion that we approve the lo-mu except remove the medical offices permission I believe use.

[2:12:28 PM]

That would be my motion.

>> Mayor Adler: It's been moved to adopt the recommendation, but adding the prohibition to medical office.

>> Zimmerman: That's right. And I guess I can make a motion to close the hearing at the same time.

>> Mayor Adler: And T cse the public hearing.

[Inaudible]

>> Zimmerman: Was it put up for all three or --

>> Yes. I think -- yes, we have an ordinance and yes, it's clear enough that the direction is to prohibit medical office as a conditional overlay.

>> Zimmerman: I make the motion for all three readings.

>> Mayor Adler: Is there a second to that motion? Ms. Pool. Any discussion? Ms. Houston.

>> Houston: What about did you say a convalesce center.

>> We still call bars cocktail lounges under code. We might look at that when we're going through the renaming of codenext. One of them is convalescent centers.

>> Houston: Is that a use the neighbors are in support of?

>> You would have to ask the neighbors.

>> Houston: Neighbors, are you in support of convalescent homes?

>> What does that include?

>> Zimmerman: There was a new home opened on Anderson mill called autumn leaves. I believe it's convalescent home. It specializes in Alzheimer's.

>> This site is just less than an acre so it's not very large for a site to develop a convalescent center.

>> Mayor Adler: It's been moved and seconded to adopt as recommended but with the additional prohibition against medical offices. Those in favor please raise your hand.

[2:14:32 PM]

Those opposed? Passes with councilmember Casar and Gallo gone. All three readings. Close the public hearing. Thank you. The next items are 46 and 47. Do you want to introduce this and we have speakers. These are related, right?

>> Yes. Good afternoon, Mr. Mayor, members of council. Steve Sadowsky, planning and zoning department. Item 46 is a restrictive covenant amendment proposal and this covers the Dabney horn house. The restrictive covenant was entered into and established in 1991, but let me start about two years before that in 1989 when the owner of the house at the time, the university co-op, asks for a determination of the historical significance on the house. The landmark commission initiated the historic zoning case. The owner opposed historic zoning for the house and requested an indefinite postponement of the case at that time. In 1991 they asked for a zoning change and that was when the restrictive covenant was entered into. It's a public restrictive covenant. And the restrictive covenant was to keep the house on that piece of property at 23rd and nueces streets. Since that time the owner has requested permission to move the house, and in 2013 they requested to move the house approximately 12 feet on the same lot. We had a very similar discussion about the restrictive covenant at that time whether the house could even be moved

on the same lot because of that restrictive covenant which required the house to stay where it was. That certificate of appropriateness was eventually granted by default because we ran out of time to process that case.

[2:16:36 PM]

So when the owner, who was then the appellant, appealed the landmark commission's denial of it, we found that the 75 days for them to make the decision had passed and the certificate of appropriateness was granted to move the house 12 feet on the same lot. Now, the house has never been moved. It's remained where it was all along. Since that time we've had another proposal, to move the house to 901 shoal cliff court, which is at the southeast corner of shoal cliff court and San Pedro. So it's about half a mile from where the house is right now. And it is next to the Clyde and Henrietta Littlefield house, which is the historic zoning case you all have on your agenda this afternoon as well. So there is a -- there is currently a house at 901 shoal cliff court. The historic landmark commission has granted approval to demolish that house and also granted the certificate of appropriateness to move the Dabney horn house to 901 shoal cliff court. Staff is recommending and supports the certificate of appropriateness to move the house. Where the house is right now it is surrounded by parking lots. Moving it to shoal cliff and San Pedro would put it into a much more residential context next to another potential historic landmark. It's a very narrow street. The way that streets used to be in that neighborhood before they were widened and enlarged through the development of the university. So it's very much an older, old-fashioned type context at the new location. And the way staff looks at it, we have the ability to save two houses rather than just one. The restrictive covenant was entered into to keep the house on its lot at 23rd and nueces.

[2:18:39 PM]

The historic zoning was added to the Dabney horn house in 1991 as well so any changes to the house are required a certificate of appropriateness from the historic landmark commission. The current owners have applied to remove nonhistoric additions. When university co-op had this they had made some additions that don't reflect the original. Those will be moved. The original section of the house will be moved if you all amend this restrictive covenant, will be moved to shoal cliff court and it will be really restored to its original historic appearance, size and configuration. Seems like I'm leaving something out here. The historic zoning, as I said, covers and protects this. The restrictive covenant will be transferred if you all allow this amendment from 23rd and nueces to shoal cliff court, so the house will be protected at its new site as well. In staff's view this is a win-win. As far as preserving the house, keeping the protections on it that currently exist, putting it in an appropriate location and with the probability of saving the house next door to it as well creating an historic enclave. So staff supports the amendment to the current restrictive covenant to allow the move to shoal cliff and San Pedro, which has also been approved by the landmark commission.

>> Mayor Adler: Thank you. Any questions for staff? Yes, Ms. Pool.

>> Pool: I would just like to make the motion to adopt the staff's recommendation to move the house, the Dabney house to shoal cliff court.

[2:20:43 PM]

>> Mayor Adler: Is that item 46?

>> 46.

>> Mayor Adler: The change -- changing the restrictive covenant or --

>> That would be an amendment to the restrictive covenant.

>> Mayor Adler: That's been moved. Is there a second to that?

>> Well, actually I think we need to have a public hearing. I think there's someone to speak.

>> Mayor Adler: We haven't taken a vote yet. Mr. Renteria seconds the motion. Now the public hearing.

>> Houston: May I ask a question, mayor?

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: I'm concerned that we're perhaps going to maybe adopt the recommendation to move it to a location where the owner is objecting to it being moved to. Because it sounded like if we adopt the amendment, then it would be able to move the -- the restrictive covenant. Then that property would be able to move to shoal cliff. That sounds like what that is. But if that's not true, if it's just removing the restrictive covenant so it could be moved anywhere -- it sounded like those two properties were linked.

>> Mayor Adler: I think 46 and 47 are linked because I think the intent is move it to 46 and then to 47 and have it zoned historical at that point.

>> Correct.

>> Houston: So my unreadiness is that the owner of -- on 47 opposes --

>> Mayor Adler: My understand the owner does not oppose 47. Is that correct?

>> The petition that you have in your backup, councilmember, is from the former owner. The current owner does not object to historic zoning.

>> Houston: Is there current backup? Because the backup that I have is dated 4-18-15.

>> Yes, and that is the -- that is the only backup that we've got. But that owner that's filed the valid petition against historic zoning does not own the property anymore.

>> Mayor Adler: And is the current owner okay with what this is?

>> Yes, sir.

[2:22:43 PM]

>> Pool: And mayor, question. This would be just a procedural should the motion be coupled with item 47 as well or are they separate?

>> Councilmember, so the owner of item 47, the property in item 47, is the same owner of the lot where this house would be moved to. So what they are saying is that if we approve this restrictive covenant as per the motion that's on the table, then there will be no objection to historically zoning the next item, item 47, and the two houses will be next door to each other. And in the future, the near future if this were to happen, we will bring it forward a new case that would take the historic zoning from its existing location, move it to the new location where the house is being moved to and do another restrictive covenant just like the one we have now that would say the you house could not be moved. Council Houston, this house would be moved to a location owned by the house next on your agenda and if we agree to move this house to that location, he will not object to the historic zoning for the next case.

>> Mayor Adler: My understanding is that the historical zoning that's requested in the next item, 47, was something that the -- that either the original owner opposed or even the existing owner would oppose unless we also allow this other house to be moved there.

>> Correct.

>> Mayor Adler: That's the package. So by moving the house that is otherwise going to -- by moving it over, we then get the historic zoning on the second property, which we might not otherwise get because the owner would object to it and would petition for it not to be --

>> That's exactly the situation.

>> Mayor Adler: By allowing it to move over, my understanding is we protect two houses.

>> Yes.

>> Pool: And we free up the lot where the Dabney house was moved from for some other kind of development.

[2:24:47 PM]

>> It says anticipated there is a site planning completeness check for student housing project on that property.

>> Mayor Adler: Mayor pro tem.

>> Tovo: I have a lot of questions, but I know that we have some speakers, some of whom disagree with, frankly, the proposal that we should hear from before we talk much more about a motion on the table. One thing I wanted to talk about, you summarized the chronology, but there were a couple pieces I think are relevant. While it was -- while there was a certificate of appropriateness granted through default by the historic landmark commission, it was still incumbent on council, on city council to remove the restrictive covenant, which they denied in 2014. February 13th. And just as a point of context, it was a very similar argument. The argument at that point was to move the Dabney horn house 12 feet to make way for a student housing development. I remember it really clearly because it became sort of an ugly point in my campaign that year. And it was unfortunate I think that we were sort of pitting two values against each other, that for historic preservation and that for, you know, increased housing. So I hope that -- I hope that we can have a broader conversation about it here, but I appreciate that this is a different scenario because we are being asked to do these two things together, but I just wanted to, number one, verify my memory was correct, that in essence it did come to council for removal of restrictive covenant and it was denied. And I think the vote was fairly resounding on it.

>> That is correct, yes, ma'am.

>> Tovo: Have there any cases before where an historically designated home has been relocated? After the designation is granted.

>> Not that I'm aware of.

>> Tovo: So this would be our first.

>> This would be a first; however, we have had a number of cases, including the Roy Thomas house, that was moved from north campus to San Antonio street and that was part of a pending historical landmark case where the house was moved for -- to ensure its preservation, encourage its preservation.

[2:27:08 PM]

>> Tovo: But I would say that is -- I mean the home we're talking about now has had an historic December ignition nor 15 years.

>> Since 1991.

>> Tovo: This would be the first example we're removing an historic designation and removing the house, that you are aware of.

>> That I'm aware of. There may have been one -- one or two before my time with the city, but I don't know.

>> Tovo: You know, in the end and I look forward to the testimony and learning more about it because in the end it may be the right move for the community, but I want to just underscore that if the council grants this, it should be not seen as any kind of precedent for future cases because it's an extremely unusual request being asked of us. It did in a similar form come through before and was turned down and I think it's something we should take really seriously. We have an historic preservation program and it's integrity, frankly, rests on those landmarks continuing as landmarks because we have had a council decision that says these are important to our cultural landscape, our cultural, historical landscape and we want them to stay. And so I think saying suddenly we want them to remain but in a different context is a different -- is a big-is a different statement. I think we shouldn't make it lightly and we haven't make it frequently. Okay. So has this particular property been receiving a tax abatement?

>> It has not. Up until a year and a half was owned by the university co-op which is tax exempt.

>> Tovo: Were they using it as their entity?

>> Yes.

>> Tovo: So no one was rented it for the last year and a half?

>> No, it has been occupied but as far as I know they did not apply for the tax exemption last year.

>> Tovo: We can verify that with the applicant.

>> Yes.

>> Tovo: Have you -- I looked through the restrictive covenant and I didn't see -- I didn't see a set of standards of how both the Littlefield house and the Dabney horn house would be restored.

[2:29:22 PM]

So, for example, the only language I really see in that is that the owner -- well, where is it? In any case, have you put together a set of standards indicating where it would -- where the Dabney horn house would be located on the property, what would be the -- what would be the historic criteria they would use to restore it? Have you set any of that down on paper in the restrictive covenant?

>> The -- excuse me. We have done so preliminarily. I think, you know, we were waiting basically on a decision as to whether this move could actually happen based upon the amendment to the restrictive covenant to really get down to the precise details. But yes, there has been a plan that was developed by donna Carter, restoration architect, to -- that was approved by the landmark commission to remove the additions, make sure this house would fit on the new site. But as far as the particulars of how the house would be restored, the house is actually in very good shape as it is. But when we remove additions, there's going to be some additional considerations as to how to address areas that were covered over by additions in the past. So we will need to finalize those as part of this -- as part of this process.

>> Tovo: Okay. And so then it sounds like my reading of the restrictive covenant is correct, that none of those details are at this point in the restrictive covenant. It offers the ability to amend, to relocate, but doesn't set forward the standards that we will -- that we would want those properties to be restored to.

>> Well, the -- donna Carter had submitted a plan for restoration that was reviewed and approved by the landmark commission. So that -- there has been, it's not part of the covenants that have been included in y'all's packet.

[2:31:22 PM]

But those have been approved by the landmark commission, but they still need refinement because of this move and the removal of the additions.

>> Tovo: Well, and one of the reasons why I'm asking questions about this is that one individual who has been involved in this -- in a couple different incarnations expressed concern in the move it could become damaged, sometimes historic properties are, and it would be a good idea if this is granted for the city to set forward some standards about how it's going to be, how it would be restored. And also where it would be placed on the site. And I heard you say the the landmark commission asked about whether it would fit or where it would be placed and I wanted to get a sense from you of what kind of -- what kind of review the staff has made at this point of the existing lot and where it would be placed. It's a pretty small lot that it's moving to.

>> It is a pretty small lot, but the house will fit on it with all the applicable setbacks. Once the additions are removed. So yes, there has been a study of that and this is definitely -- I mean there are no issues as far as will the house fit on the lot, it will.

>> Tovo: Does the architectural plan that went before the landmark commission talk about what setbacks should be used to make it compatible with the Littlefield house? I mean the setbacks we have in our code may not be the right setbacks to make it, you know, fit in the context if what we're trying to do is create -- have it look as natural as possible in that context next to the Littlefield house.

>> The -- the plan is to put it in line with the Littlefield house and because these streets are so narrow, the front yard setbacks -- I believe they are 25 feet already. So we don't have any -- don't have any issues with the setbacks and what the code requires.

[2:33:24 PM]

>> Tovo: Thank you. Now, the house that -- that is currently at 901 shoal cliff, has that already been de3408 monthly issued?

>> No, ma'am, it is still there.

>> Tovo: What is the vintage of that house.

>> I'm sorry?

>> Tovo: When was that house built?

>> That is also a 1920s bungalow. I think it's 1928.

>> Tovo: Did I hear you say it did go before the landmark commission and they granted the demolition approval or was that administrative?

>> Oh, no, no, that went before the commission.

>> Tovo: Are there any plans to solicit interest in relocating that house or at least to salvage the architectural materials?

>> As far as I know there are not but that's definitely a conversation we'll have with the owner.

>> Tovo: Okay. So in terms of the eligibility for landmark status, if we grant this relocation, does the Dabney horn house -- I heard a couple different answers, I mean I heard a couple descriptions of what happens to the restrictive covenant. I think I heard first that it would just move over and then I heard another that it would need to be initiated as an amendment. So in terms of the restrictive covenant that it not be relocated again, and also that it have an historic zoning, do those must move over automatically or require further commission and council actions?

>> That would require further commission action for the historic zoning.

>> Tovo: So there's not an absolutely certainty that that house once moved would receive historic landmark designation?

>> Does not absolutely certainty, no, ma'am.

>> Tovo: That would have to go through the process again and get council approval.

>> It would be for the zoning change on the new site, yes.

>> Tovo: Okay. And we don't have any precedent to look to -- see if that -- I mean some people might feel that it's lost some of its historical significance once it's moved from its site so that will be a discussion that has to happen.

[2:35:28 PM]

>> We do have precedence that way. Again, the Roy Thomas house was moved from the triangle to 15th and San Antonio. Historic zoning was granted at its new site. It was a pending case at its old site.

>> Tovo: That's right, you said that. And so does this restrictive covenant -- I don't believe I saw in here but I may have missed it, does a restrictive covenant obligate the owner to seek historic zoning on the Dabney horn house once it's moved to its location?

>> The restrictive covenant as written does not, no. The restrictive covenant would just mean the house remain on the new site.

>> Tovo: Okay. So those are questions that I will ask the owner and the developer representative if we're being asked to do something pretty unusual and based on another case which is also unusual that we have two completely separate properties that are somehow linked. Then those are some of the provisions that I would like to be really sure about. So that's a couple of them that I'll bring up later.

>> One thing, councilmember, the plan is in the covenant amendment is approved to -- that the owner will file an amendment to the existing historic zoning to move it to the new lot and if they do not we'll simply ask the landmark commission to initiate that case and I believe they will because they feel --

>> Tovo: Right, but then that requires -- I mean if there is another sale or something happens to the ownership or the owner changes his or her mind, then that requires a super majority at council. So it seems to me that is something that we should have in a restrictive covenant, that they are obligated to file for historic and not to oppose it when it hits council. Okay. Thanks very much for that info.

>> Pool: My question was just following up on what the mayor pro tem was talking about with the restrictive covenant. We've -- through our questioning here have at least laid down a pretty solid case for our intention that the Dabney horn house be considered -- be redesignated as historical.

[2:37:35 PM]

Is there anything that I could do to change my -- to amend my motion to ensure that that happens? Because I agree, I didn't really appreciate the unique situation that we were in and so I want to make sure that we don't lose somehow through inadvertence, lose the fact this has been designated historic.

>> I believe if this amendment were to pass, I believe that we can add language to the covenant that would require, obligate the owner to file a new historic zoning case on the new property.

>> Pool: And that our vote here today is predicated on the fact we are understanding that will happen.

>> Yes.

>> Pool: Thanks.

>> Mayor Adler: Ms. Houston.

>> Houston: I just have one more question. The planning commission just forwarded to council without a recommendation, what was the conversation and context around that?

>> On the Littlefield house?

>> Houston: On the Littlefield house.

>> There was owner opposition to historic designation at that time.

>> Houston: And so when did it -- there's no dates on when it went to the planning commission so --

>> It went to the planning commission on June 23rd of last year. And the house has been sold.

>> Houston: Okay. All right.

>> So the new owner is not in opposition.

>> Houston: Okay. Thank you.

>> Yes, ma'am.

>> Mayor Adler: Okay. Further comment on the dais? Then we'll go to the public comment. I want to call up 46 -- should we call them separately or can we hear them together?

>> Separately, mayor, if at all possible because we can make the second one real short.

>> Mayor Adler: We'll do that with the understanding we're going to try to make the second one real short. By and large it's the same speakers for --

>> Right. My name is Mike mccone.

[2:39:36 PM]

Appreciate the council's time.

>> Mayor Adler: Is Scott burns here? Is Claudia burns here? Claudia burns. You have six minutes.

>> I'll have to be real fast. Mayor pro tem tovo, you've messed up a really nice power point presentation. So -- though you may not have meant to. One thing about getting a little older, I appreciate the mayor joining my club --

[laughter]

--

>> Mayor Adler: Kind of a nasty recurring theme we're having here.

>> I've been around and I've been coming to these meetings for a long, long time. To your point, mayor pro tem, there have been a couple different times when historic buildings have been relocated. Back in those days I also raised the same concerns that you did because they were being moved out of the city.

And I can give you those -- with a little bit of research I can get those to you. I can't remember off the top of my head where they were, I mean the name of them. One was on nueces near 22nd street just below the hill house there was a house that was -- the Rutherford house was moved. It was moved out of town. I believe the carington house was also moved. And it's finally sadly had to be demolished because nobody would take it off the city's hands. I think the city took that one. And the same thing happened with the house that was moved from the bruill house with the presbyterian church downtown and sat on red river for years I don't know exactly what's happened to that one. Sometimes these historic houses don't have a lot of opportunity to be saved and in this situation we have that opportunity. What we're here today to do is simply amend a restrictive covenant that was placed, as Mr. Sadowsky said, on a zoning case while an historic case was pending for two years.

[2:41:39 PM]

This restrictive covenant designates that the only property that the Dabney house can go to is the property at 901 shoal cliff court. It will adjacent after case 47 is heard to another historic house. Properties at the university -- it's in the university neighborhood overlay so there are no real yard setbacks or requirements. It will be lined up to match and it will be a beautiful house and a beautiful situation. And I need to figure out how to get this going. The right arrow. There we go. The case history of this, there's a slide, June 6, 2014. The Austin city realty purchased the property from the developer that had purchased this property from the university co-op, 507 west LLC purchased for a student housing project. No thought of the Littlefield house. March 6, the application for the demolition was granted on 901 and 903 was recommended by the landmark commission to be zoned historic. On April -- on June 23, the planning commission then heard that same case and voted 4-3 against zoning it historic. That being the Littlefield house. City council went on vacation and we negotiated with Steve and then on September 8th the owner of 507 west LLC got approval on the Dabney house. Then on the 28th the landmark commission, negotiated and talked with staff about certificate of appropriateness to suddenly save two historic houses in stun by moving one to a more appropriate neighborhood, more appropriate location and creating a situation where not only was it more appropriate for the houses, it's more appropriate for that little enclave of single-family homes up there and the landmark commission went with that.

[2:43:58 PM]

We've come back now and based on this certificate of appropriateness from the landmark commission, the owner went ahead and negotiated Austin city properties, Austin city realty affected and closed on the property -- negotiated and closed on the property and we had to file a zoning case for this removal of this restrictive covenant. This thing is really tied together. So all those documents are in your backup. The owners have signed everything saying we're going to do this. As I was saying, the uno -- the uno guidelines of outer west campus give you a very strict height limitation if you are adjacent to an historically zoned property. And so you would be in a situation where you would have setback

requirements, height requirements and suddenly you are working with a 6,000 square foot house. Nothing is going to happen to the Dabney Horne house once it gets moved to that location other than it be restored and used appropriately. So the benefits of moving -- I'm not going to go through these slides. We us why don't have time. It saves the Littlefield house. It increases the affordability, the architect will talk about the site plan in the review. There's an increase in property tax revenue by building the tower. Nueces. Improves the safety because we suddenly have a 24-hour use there on apartment building. Decreases the traffic because students can walk two blocks to campus and so it is -- protects the neighborhood completely as well. Just want to show you one picture here of how this might look. There's how this will look sitting side by side on shoal cliff court backing up to poplar street.

[2:46:02 PM]

If that's not a better situation than what exists there now, it's hard to believe anyone would -- and that's how they would sit. You'll notice that this does extend a little over the property line.

[Buzzer sounding] But it's a unified development. It's one site and we will file a site plan and put in the streetscapes that are required. So I appreciate your time. Be happy to answer any questions. If you look in the backup, I've been with with this for a mighty long time.

>> Mayor Adler: Anybody have any questions at this point? Ms. Crocker. Sara crocker.

>> Did you want to take the full presentation in order, Mr. Mayor?

>> Mayor Adler: I was taking the speakers as they signed up. Does it make sense for something to come up here?

>> We have the owners and the architects and the developers all here. If you would like to hear all the presentation, but however you want to do it, sir.

>> Mayor Adler: Let me hear from Sara crocker first or do you want to hear the presentation first?

>> I would rather the applicant finish their presentation.

>> Mayor Adler: Then we can finish the presentation then.

>> Good afternoon, mayor, happy birthday, my name is Dave Connie. I am the -- my business partner Eric and I are the owners of the Dabney house.

>> Mayor Adler: Let me check for timing. Is Claude 82 burns here? Is Scott west here? Is Scott burns here? So I see you have 12 minutes.

>> Perfect. Again, my name is David Connie. I am the applicant on this case. Austin city realty purchased the property, the Dabney Horne house from 507 west -- just to clarify, the co-op sold this property to a developer.

[2:48:17 PM]

The developer in turn sold this house to my business partner and I to move our office that we currently had in west campus to then move our office to this house. I think that's kind of a missing piece that people don't understand. When we purchased this house, we were officing underneath the university towers parking garage for five years in west campus. We felt this was a great opportunity to put an office closer to campus. The developer, I believe, had tried to move the property 12 feet, had some issues with development and my business partner and I saw this as a great opportunity to have an office. Since the time we opened up our office, we signed a 10-year lease with a tenant that we had there. We put about \$150,000 into the property. We contacted Steve Sadowsky. We fixed up the property. We even asked what paint colors to paint the underneath of the porch for the property. Our intent all along was to have an office there. We do a lot of real estate in west campus. We help a lot of students find housing. We work with landowners. We've managed property, we lease property, we develop property. We were working on 901 and 903 Shoal Cliff to buy the property and do a student housing development. In the process of that project we realized that 903 Shoal Cliff was the Clyde Littlefield house, and in working through that one of our contingencies to buy that property from the seller was that the property be uneven couple burden so we could -- un'em couple period so we could develop it. Let me go through the notes and actually try to back up. And you can see that we -- we received approval from the landmark commission on the 901 Shoal Cliff and then we -- I think staff initiated historic zoning on 903. In working with the sellers, we told the sellers, look, we can't do anything with this property unless we have the land because the price you are asking we can't afford to keep these properties here.

[2:50:24 PM]

We can't afford an historic house on this one site. So in working through this process, we got the planning commission. Planning commission was 4-3 and it was going to come before city council. In the process of doing so the developer, who had the property behind us, has been working on the site plan behind our office decided he didn't want to develop this project any more in west campus. Simultaneously we were working with the developer here today on another project on west campus and they were looking at that site to potentially take this site plan and do this project. We said wouldn't it be great if there was a way that we could save Littlefield, move Dabney there and create a better site only two blocks from campus and I think everybody wins. We started conversations with staff, Steve Sadowsky and ran this idea by him and staff seemed to think this was a pretty smart idea, even given the history so many people had worked on this case. So what we did was told the sellers, look, why don't you give us another 30 to 45 days to figure out what landmark commission is going to think about this idea. When we proposed to landmark commission we talked until 11:00 P.M. We talked about the entire history of the case that had opposition for two hours. We went through the moving pieces, you know, from campacks concern, from preservation Austin's concerns, from setting precedence, how are we going to make sure this guy does what he says

he's going to do and how are we going to work these logistically. It's confusing, complex, but I know we can address them because when we stood there at landmark we told them we were going to do what we said we were going to do if they approved the landmark. So they said okay, we're going to approve this project. We see this as a good project. Preservation Austin spoke that night, Terry O'Connor represented them and spoke only in opposition because we had not had time to meet about the project.

[2:52:30 PM]

After that night we had an opportunity to meet with campack, address concerns for members that were also involved in the previous two years of case here. We had time to, you know, talk with Terry. We've had time to talk with different members of the community. And based on all that and after the appeal process, Sara Crocker was not at the landmark commission. We thought this was a good idea since we told them we're going to go ahead because we got the certificate of appropriateness, we're going to buy the properties, Eric and I purchased the property. We were like okay, good, let's move the house. Okay, there's a restrictive covenant. Now we're learning we have to get a restrictive covenant taken care of. So we start this process again. We go to planning commission and they had it on the consent agenda and it won unanimously. We thought this was -- we were going to do exactly what we said, we were going to move the Dabney Horne house, fix it up, basically save the Clyde Littlefield house, basically say, hey, we'll go ahead with the historic landmark at Clyde Littlefield house, which is 47 on the agenda. And we'll do everything we said we were going to do and now this opposition and we don't know where it's coming from because they weren't at planning commission, they weren't at landmark commission and there's a lot of moving pieces and I think all we're trying to do today is make sure we answer questions especially from people who have been on this case for so many years. We understand we're not trying to set a precedent here. Kind of the presentation we gave to landmark was there are situations in the past where we haven't done a great job with preservation. This house could not be moved because it was a stone house. You know, I got an email the other day, hey, look, we would love to save this, it's a stone house. Dabney Horne is pier and beam. This is another house in Austin and I know these are drastic pictures, but it's a really situation that Chris todayen a think we're trying to find solutions.

[2:54:35 PM]

Back to really kind of the way we initially looked at this and said why would this make sense for anybody and where are we today, we said hey, we can save the Littlefield house, we can increase affordable housing in west campus, we can increase property tax revenue, we can improve the safety on the 23rd street corridor which is actually a pretty dangerous place. Right now we have a community outreach program that at night is not well lit. When you have a house set back 25 feet, there are legitimate safety concerns on 23rd street right now. There's less traffic. So we thought all these things were going to be really great benefits and we want to make sure we address these benefits to y'all. More importantly, we address the concerns and precedents and making sure we do what we say we're going to do and fix the

house in accordance with what landmark says it wants us to do and work through that process with the city of Austin. Staff recommended this process; otherwise we would have never we understand to landmark. Land approved otherwise we never would have closed on the property. Planning commission voted unanimously on consent agenda and we ask that you guys approve the restrictive covenant amendment whether we have additions to that to ensure we'll go along with that, but this has been a long process and we all have been starting this process. We were under contract on 903 shoal cliff on January 13th, 2015. It's been a long process. And we're just trying to get to the point where we can accomplish what we said we were going to do to the lander and -- landmark commission and staff and city.

>> Mayor Adler: Questions? Mayor pro tem.

>> Tovo: Have you talked with any organizations about potentially either salvaging the architectural materials at 901 or seeing about relocating that house?

>> Yes. I think it's important to point out, Lynn team was representing preservation Austin and Lynn team reached out to me.

[2:56:38 PM]

She's on campack right now. She sent an email from someone that was interested in the property and I reached out to them and they think it's a really good shape and fit that the house could potentially be moved to a location and preserved. And what we've actually done a good job of done in the past any time there is demo, we prefer to preserve it. We've been a part of some deals where we allow anyone to come and take, you know, for us it just makes sense to let someone try to preserve that property if they can based within the time line so we have reached out to people.

>> Tovo: What is the time line?

>> Ultimately for the developers I think we would ideally like to move the house this summer that that gives a couple months to find an alternate solution for 901 shoal cliff.

>> Tovo: I haven't seen it in a couple months but my staff member said it's quite a charming place and appears to be in good shape. Obviously that's the windshield view but I'm glad you've had discussions about that and I think that's very in line with our city's goals from zero waste to historic preservation to try to relocate houses rather than just demolish them.

>> We agree. It's vacant now. It was a fraternity house. Luckily they didn't go inside but I think it can be preserved and saved.

>> Tovo: Thanks.

>> Mayor Adler: Anything else for this speaker? Thank you very much. Any additional part of the applicant presentation? Sir.

[2:59:02 PM]

>> Good afternoon, mayor, council. My name is jack tiddale. We were engaged to work with mark hart architects. We're working together on this and thought it would be helpful if you folks could see the project that's been designed, it's in for -- I think we got a completeness check, but it's still in design, still underway, but it's pretty well along. So I'm going to see if I can pull up these Google Earth views. Oops.

>> It's the right arrow.

>> Right arrow? Okay. Not going anywhere. Okay. Okay. So we tried to put our model into Google Earth, which fortunately in the U.T. Area it's all pretty well modeled. In the center of the screen is the new project. So to the left of the new project is the existing Calloway house, and then you see the csatillion. The project has been designed to meet all the university neighborhood overlay requirements as well as all the urban design guidelines. An important part of the design guidelines are the shadow envelope. I hate to move this because I may not be able to get it back. But you can see we're on the south side of 23rd street.

[3:01:05 PM]

So the -- as the ordinance was prepared for university neighborhood ordinance, they -- part of that is a requirement to have a shadow envelope so that on the south sun you are not throwing heavy shadows across the street so it opens up the streetscape. So you can see our project very carefully steps back to stay within that shadow envelope and open up that north side of the building and the south side of the street. We feel that this project dogs what the city planners envisioned, that it is higher density close to pus. It's encouraging students to walk, thus cutting down traffic and congestion. So I think there's a delay. So this is it looking at it from the other direction. This is looking west to east. Come on. This is the view I really was wanting you to see. So again you see how the building steps back, opens up, light and air to the street. Again, we've done several projects in the west campus area. This is in the inner west which allows the 175 feet. And again, we will continue to work with staff and review all this so that, again, we're meeting all those requirements. Any questions?

>> Mayor Adler: Looks good. Thank you. Hold on a moment, please. Mayor pro tem.

>> Tovo: Thanks very much. If you could talk to us a little about -- I have some -- I understand that you are still in the review process, but there is a plan on file. One of my staff members was able to take a look at what you filed and I just want to verify these Numbers with you. Are you contemplating around 212 residential runts?

>> That's correct.

>> Tovo: Okay. And so under the university neighborhood overlay, 10% of those are required to be affordable at 60% MMI and another 10% affordable at 50% mfi, a developer can seek a waiver.

[3:03:23 PM]

A question for you or Mr. Mchone will be -- will you be constructing 50% of units the 50% mfi?

>> We'll have 68 beds that are affordable and I think they will --

>> No waiver, yes.

>> No waiver.

>> Tovo: So there will not be a request for waiver for the 50% -- the 10% at 50. At the end of the day we would have 20% of the units within this building affordably priced at 60% or 50% of mfi?

>> I think that's what I'm hearing the owner say.

>> Tovo: That's great. Would you be willing to put that in the restrictive covenant? You can take time to question it.

>> That's not my decision.

>> Tovo: I understand that.

>> Thank you, mayor pro tem. Mike Mchone again. They will be doing by the bedroom, which will be the 68 bedrooms that are affordable. There's 683 and that will change for our five or six as it goes through the process. We always lose a few or sometimes we gain a few. Roughly 68 bedrooms will be affordable. Under the ordinance if it was passed a year ago, those could be doubled up and then there's only a 10% differential. So it would go from the current rate is 720. \$720 a month for a bedroom or unit. People are choosing to go to the bedrooms. And if students were to double up in that situation, the rent would go up by 10% so it would be 792 divided by 2, you are looking at rental rates for the student living in a brand new place of less than \$400 a month for rent. Which is very good. They will also then take advantage of the second, of the option to pay a fee in lieu to the university neighborhood housing trust fund for the second 10%. That was based upon the square footage of the building. Currently I believe the building that's been submitted is 212,000 plus square feet.

[3:05:25 PM]

That would mean that the \$212,000 would go to the university neighborhood housing trust fund. Currently the inter co-op council has its project under construction or in the same review cycle for a project at 22nd and San Gabrielle and there will be other projects that will be available once this money is paid into the trust fund.

>> Tovo: So I think we're talking a little apples and Oranges. I'm talking about percentage of the total and you are talking about bedrooms, which is fine, but I think the answer to my question is you do intend to apply for a fee in lieu rather than construct those required units on site. I guess my question to you is, is there an opportunity for you to talk with the relevant parties about instead constructing those -- making all of your affordability provisions, units on site?

>> That would be a decision that would have to be made by the developer during that time frame. I don't know that they are -- what the proforma is to do that. But it's quite typical there have been very few projects, in fact none of the projects built in the inner west campus have done that simply because of the land cost.

>> Tovo: I'm just hoping we're going to get away from fees in lieu because we desperately need the units on site whether you talk about bedrooms or units, we need them on site rather than fees in lieu. I would supported a short postponement to allow these to be discussed among the development team and also accommodate some of the issues we talked about before. I'll just throw that out there at this point.

>> Mayor Adler: Thank you. Is there anybody else in the applicant presentation?

[3:07:26 PM]

>> Mayor, mayor pro tem, members of the council, I'm not sure if I'm the next in line or exactly how all this works, but I'm here to introduce myself. I'm Edward Johnson with Johnson associates. I'm here with my partner John true. We are really here to visit with you to the extent that you would like to visit with us and introduce ourselves. We don't want to leave it to your imagination who we are or assume we're some out-of-town developer that doesn't care about the city of Austin, although we are not the applicant, we have been working in concert and day to day cooperation with the applicant throughout all of what has led us here today over the past close to a year. Mayor pro tem, we -- I won't claim to be an expert on exactly every detail of how the affordable housing units work, but I can tell you this and I will promise you this. And I don't know how to do it in a way other than giving you my word, but we are not seeking a waiver or fees in lieu of and we will be doing all the affordable housing units that were asked to do on site and that is in our plan and I have several architects that can come back me up on that. And we will -- that's what we're submitting to the city. We -- we do see this as a win-win. You guys may not know this because we don't come here asking for stuff, but we -- so by the way, we've purchased, we've closed on the parking lot site that already has a building that has a site development permit and a building permit ready to be issued. We know that -- we're informed that the landmark commission would like to see this whole win-win between the Dabney Horne house and the Clyde littlehouse saved.

[3:09:37 PM]

I can tell you that's a win for you guys and a win for us. It lets our project be a little bigger and we're excited about that. So we -- we went through the process and frankly I didn't even know -- I thought everybody agreed with it and didn't know there were -- we welcome questions and we've brought everybody here to collectively answer them. So I just wanted to introduce myself and John true and I think he will come up and introduce himself personally in a few minutes if there is the opportunity, but -- but we just wanted to be here and not be invisible.

>> Mayor Adler: Thank you. I didn't catch your name.

>> Edward Johnson.

>> Mayor Adler: Edward Johnson. Would you please add that to the speaker list? Thank you very much. Any questions of Mr. Johnson? Mayor pro tem.

>> Tovo: I have questions for all of you. Thanks very much, I appreciate you being here and I appreciate your testimony and I'm still trying to figure out how all of the parties are working together on this. But as I understand your role from your testimony, you are the eventual developers. Is that right?

>> So that's right. So we've closed on the one site. When the opportunity -- so following what's going on with the landmark commission, when we saw that there might be an opportunity to expand our project a little bit with this house being moved, we went under contract with Mr. Connie. Austin city realty to purchase their site. We still have it under contract, we still intend to close on it. And once the historic -- so we -- our team worked a long time with the staff of the historic landmark commission and that went well. Then we -- but then you want to go through the vote. After we got the favorable vote from the historic landmark commission, then we engaged our design team to -- and our civil engineering team to -- to modify the project to, you know, fit the -- be a bigger project.

[3:11:44 PM]

So we're -- as Mr. Tisdale said, we're well down the road on that. Our site plan has been submitted and we have our completeness check. And so that -- that's kind of our relationship. Obviously we've worked closely with all the -- with the applicant.

>> Tovo: Sure.

>> Through all of this and have made our decisions based on the historic landmark commission's support and the benefits that that -- that they are getting and then the planning commission's.

>> Tovo: Super. So I guess my question then just to kind of get back to the discussion we were having, so it's your -- you have the opportunity under the university neighborhood overlay to apply for a waiver of that 10% at 50% mfi and the question I was asking Mr. Mchone was whether you intended to that or would you be willing to add a provision to the restrictive covenant or whatever other appropriate document to construct those on site. I think Mr. McMone was saying no.

>> 10%.

>> Tovo: So it sounds like the answer is no, but I guess I would continue to ask that you consider that. We're making a lot of, you know, especially since an overriding argument I've heard for removing the historic house and making these decisions has to do with creating more affordable housing, the best way really to do that is not through a fee in lieu but actually constructing those units right there. But anyway thank you.

>> I mean I guess my closing statement, I'm happy to come back up if anybody has further questions from our team, we really saw it as a win-win. I mean the -- more -- I mean the most true of win-wins. So the city gets to put the Dabney Horne house in a more appropriate location, out of highrise and into as Mr. Sadowsky said next to a -- save the clydelittlefield, put it where the city and uno has said they want it.

[3:14:16 PM]

Also add affordable housing on top of that. You know, I'd close with that.

>> Mayor Adler: And I think there's another question.

Councilmember pool.>> Mayor Adler: I think there's another question. Council member pool?

>> Pool: Thank, mayor. I was curious. Did you have an opportunity to come and talk with various council offices before today?

>> We just didn't realize until the last -- we came out of planning commission with -- we came through every step of the process, staff approval, historic landmark, historic landmark commission vote 8-3, staff approval of planning, unanimous voting of planning commission, here on consent aje da. And we just -- as we can describe in much more detail, our team has reached out to various constituencies that we thought were relevant and you all would think were relevant and you'll notice they're not here in opposition to us today. And we're all gathered here because we sort of -- I mean, look I would have been happy to have courtesy meetings with any of you. I just -- I've done a number of projects in town, I have. I don't ask for anything. No, ma'am, I haven't visited with you individually.

>> Pool: If we happen, this afternoon, based on the number of questions that have been asked, if we decide, I'm considering amending my motion simply to ask for a postponement so that any additional questions that may be pending could be resolved. Would you be willing to come and meet with the council offices so we could get additional information from you and have questions answered?

>> Aisle try to answer as much as I can here today and move forward as we thought we all were absolutely cooperate with the governing body however you ask me to.

[3:16:29 PM]

It's a student housing project. We spent money and we're far along and not like an office project of you have a little flexibility of when you deliver. We're trying to deliver in the summer of '18. You know and so kids have to move in. So we're trying to -- trying to save a schedule. But, sure. I mean postponements are better than not having approval. We kind of had approval.

>> Pool: Thank you. Mr. Johnson. I just wanted to say, in response to your question, you did call our office and we did appreciate the chance.

>> We did appreciate the chance to talk to you. No, you reached out the some of our offices.

>> I apologize for it being last --

>> You don't need to apologize. It was fine, it was fine. I spoke with donna.

>> There's no apology needed. You called us, we got talk with you. I appreciate that.

>> Thank you.

>> Troxclair: When the next speaker comes out, I'll say he reached out on Monday and had several conversations with him as well.

>> Mayor Adler: Next speaker, Eric crocker.

>> I want to hear somebody with an opposition to this.

>> Mayor Adler: Sara crocker. Thank you. We have everyone signed up speaking in favor of this. And as I have done in the last 12 months, I like to go back and forth between the yeses and the noes.

[3:18:31 PM]

One person in opposition here and I'd like to hear that. Ms. Crocker?

>> Thank you, ladies and gentlemen of the council, my name is Sara crocker. I'm here on behalf of Katherine Perry who wants to build her shop across the street from the Debbie horn house. And they're correct. If I hasn't sort of parachuted in the middle of this deal in January, it was on the consent agenda and it probably would have stayed there. I don't know if it would have or not. But it was a good chance it would have. Because since they started this process last year, there's only been one public hearing that had any meat on the bones. That was last September. The reason I wasn't here is Ms. Kerry, my client, lives out of town. She has a new assistant. She called me in January to talk to me about message developing plans and asked if I wanted to do that. I asked her if she got notices. She said, no, I started working on my computer and found out the hearing was supposed to be in three or four days. That's when I showed up. She wasn't aware they were putting the notices in her file. That explains our absence. However, I have sat and watched every single hearing. I watched it three times. Very long, very -- the

commission was very concerned. There's a couple of things that I'd kind of like to get straight just for the record. Since everybody else is done, get the facts straight on the record. Back in 2013-'14, there were actually -- 2012 and 2013, we had 11 hearings. And there were -- the landmark commission actually denied -- voted to deny two relocation permits -- two certificate of appropriateness.

[3:20:41 PM]

There was an application to move it to one location which was in -- it went to mlk. They denied that. They just amended it again, didn't move it on the lot. And then it made me mad again. She just cut off the two parts of the house. That was denied. They never got an informative vote at any commission. It went to planning commission to council. And the mayor pro tem has pointed out, it was denied. I believe the vote was unanimous. This is the same story. It's just put in a different package. My client is not anti-development. She is not -- she likes density. She invests in a lot of those types of projects but she owns a lot of historic property. And she feels that historic designation means smpg. When she purchased these two houses back in 2010, she put a significant amount of money. But you have to have any historic property to snap. And both of these -->> Mayor

Adler: Go ahead and finish.

>> Okay. Aisle take -- I'll take a quick second. The main thing that attracted her was being on the corner - - I'm going to go ahead and start this. That didn't come out very well, was the fact that there was an historic property directly across the street. Because she fell like and she knew about the development, but she felt like that would stay and it gave an anchor to her property, some continuity, some context, and a sense of place. The other corner is occupied by the Sanka house. So the four corners on the intersection right now, two historic houses, you have Seneca house and you have a mid rise building on the other corner. The dots I have on here basically show -- and that didn't come out very well.

[3:22:42 PM]

All of the green dots are up and down oasis. Those are all the existing properties. And nothing is over three stories. The blue dots represent the mid rise properties that have been built in this area up to 10 or 12 stories. And then we have the red dot down here is the one project that's at the end of the lot that's about -- I think it's 18 or 19 stories. So when we talk about context, the project that when this whole thing went forward, this is the -- this is my client's property. This will give you a good idea. This is the triplex. You can see behind it, all of this land has been redeveloped. You can see behind there, there's a mid rise building so different buildings of different sizes. Everything that gets built over here doesn't have to be 20 stories. It doesn't have to be. She didn't have any objection at all to anything as long as they left the Dabney Horne house right where it is. That's the only thing she wants. She's offered to buy it. I know there was a letter of intent drawn up and a very generous offer was made. I'm sure it won't be accepted

right now. She'd like to buy that property. She'd like nothing more than to own it and keep it and she has a lot of ideas about what she would use it for. And I hoped it would be taken into consideration. I was a little surprised when I saw the -- the dates because on January 13, Mr. Kayne put the shore cliffs properties under contract. But he filed for the demolition permits. He was the agent. He filled for that. He and Mr. Ricone appeared before the landmark commission, the old commission.

[3:24:45 PM]

Because all of this was in place before you changed all of the makeup on the count similar. So they -- they actually put this house in play. They put both of these houses in play. And after the hearing, they then showed up for the may hearing when that was recommended and spoke pretty vehemently, if you watch the hearing, about this house -- whatsoever. The rent house, the owner there. He went on and on and on. Because they were representing Mr. Griggs. But that's when he had the property, which I didn't know, under contract. You all changed all of the commissions in July -- was it June, July? You had all brand new commissions. So when they went to the commission in September, nobody up there knew anything about this project. They didn't know anything. They wouldn't have heard one word of anything that had gone on. The staff back up is one page. The staff recommendation. Didn't click any of the information about any of the cases. Nobody said a word about the restrictive covenant. It was only in response to the question from the dais that he said well, the commission had approved a relocation permit previously. Which was, yes, the commission for approved claim. But it was approved on appeal. The whole premise that -- that particular hearing was we need to save this house. You have to lead it to us really quick. There was an approved land behind it. And there's going to be dwarfed, diminished, won't have any context.

[3:26:46 PM]

That was the whole -- that was the whole selling point. And this other house over here you can save. It's a two for. You get two for the price of one. But they didn't tell the landmark commission they applied for the permits and put the house in play.

>> Mayor Adler: Any mayors on the dais. Any questions? Thank you very much.

>> Can I show you this that was approved. Here it is. It is 14 stories. It takes up the -- my client loves that particular side. She loves that site plan. Because it gives the Dabney Horne house alone. And that -- we would support that no matter what. If they have a building permit on it, I wish they would start building it.

>> Mayor Adler: Thank you. 50 thank you.

>> Mayor Adler: Next speaker that we have. Look here. Lauren. Why don't you go ahead and come down. What's your name?

>> Aaron. I'm partners with David on the land.

>> Mayor Adler: Gotcha, is Ryan -- you have six minutes.

>> Great. It should be less than that. Basically if I wanted to go over a couple of the points that she touched on -- she makes a good point that there have been denials on this house which we weren't apart of. However, this time that's not the case. Just a much better plan than was previously out there. She also stated the letter of intent. I'm not sure who that's addressed to. No one has offered to purchase the property outside of the developers back there. And the last thing I wanted to mention was with the question about the covenant and affordable housing, it's hard for us as the applicant who's going through this process for a year, you know, the covenant is going to stay on the house which will be on shoal cliff court.

[3:28:59 PM]

So it won't be on the 23rd street site anymore. So it's tough for us as the applicant to control what they're going to do with the projects. And you hear that going in, you know, with the different process we went through. And the approvals that we've had. So I just wanted to make sure that you understood, you know, we're not the developers. We're selling to them. By selling, we're able to save these two houses and have the money to do so. We have no control of what they decide to do. We're working hand-in-hand with them. But that's really it. Any questions?

>> Mayor Adler: Any questions? Thank you, sir. The -- the next speaker --

>> Is this on? Thank you. Mayor, council. Thank you for the time. My name is John truth, I'm a native austinite. I've been here 150 years. I served as a three-term mayor. A very clearly know how you have to deal with extraordinarily awkward situations up there. And I appreciate that. I want you to know that I appreciate that. I'm thoughtful of that. I've been developing here for 20 years. I don't get to see you guys very often and that's on purpose. And what we do we try to keep our heads down and do exactly the way the city wants it done. That's what we're doing right here. We've gone through all of the boards, gone through the commissions, your appointees, gone through the staff. We're checking the boxes, traffic, taxes, affordability. We're providing affordable rooms, providing 70 rentals, affordable rentals. That's a lot. We're trying to check all of the boxes, preservation.

[3:31:04 PM]

The Clyde lowellfield building is more worthy of a historical designation than the other house. It's pretty interesting. It intriebs who lived the Dabney house and who lived there. Pretty interesting reading. So that's all I have. Clyde Littlefield is the guy that brought the Texas relays to Austin. A pretty interesting guy. So let us do this and restore these houses and help these guys restore the homes and create a massive tax base for you guys. We're going turn a \$42,000 a year tax payment to the city to \$1.7 million. We're

going to cut down on traffic, provide affordability. It's on and on. So any questions, I'm here. And they don't have to be right now. They can be later. But I'm available and I'm easy to find.

>> Mayor Adler: Thank you very much.

>> Thank you.

>> I just want to say I could never do what you guys do. I don't have the patience. I would have been like the developers that left Austin years ago and swore they'd never come back.

>> I love the city. I'm from here. I'm very proud of what I do here and my developments. I've got a project on the east side I'm doing right now that's going to provide some excellent meeting space for nonprofits. So I worked with the councilmembers. You're right. It takes a lot of patience. I look older than I probably should. And I looked for a "Star wars" t-shirt during lunch because I wanted to wear it, is that lost on y'all? Sorry. Anyway -- thank you.

>> Thank you, sir.

>> Mayor Adler: Next speaker we have is -- it should show that Sara parker has spoken? Lauren Connie? Do you want to speak? Eric has spoken, jack Tisdale has already spoken. Mark hart? Okay. Scott Wooster. Okay?

[3:33:09 PM]

Rob Lejeune? Edward Johnson? I think we had speak. And Joan anhu. Those are all of the speakers that we have on item number 46. We want to hear speakers on 47 or do we want to consider 46.

>> Tovo: Consider them

both -->> Mayor Adler: They seemed to be linked to me. See if anybody wants to speak on 47. If they have comments, new or additional to what we have already heard.

>> Good day, I'm the applicant. On 47, to make our intentions really clear. If the restricted covenant amendment is approved today, we'll support the historic designation for the Littlefield house. That's the right thing to do. That's what we agreed to do at landmark commission. That's what we agree Dodd do with all city stock. So that's how we feel about 47. We heard the history on Clyde Littlefield. We think it's appropriate. We're working with city staff. Through various committees, constituents, we're working with the suggestions of the landmark. That's what we're here to say. They are tied together. But they are here to say, yes, we will support that if the covenant amendment is approved. I hope you guys understand, like Eric said, we're not the developers. Good for them. They can develop a great project. We're not part of the combrand scheme over three years ago. We purchased the property in 2014, we signed a ten-year lease with a tenant.

[3:35:10 PM]

We don't sign a ten-year lease with a tenant thinking you're going to move a home. It's very clear. We don't have an Loi from the neighborhood. We know the neighborhood contacted our tenant, but we have never been contacted by the neighbor.

>> Mayor Adler: Okay, any questions? Thank you. Other people wish to speak, Sara crocker, lura Connie, jack Tisdale, mark hart, rob Lejeune. We had all of the speakers that we can have. Given some of the things that have happened on the dais, I would like us to recess to executive session for just a couple of minutes so that we can address an issue that I think is raised. Without objection, take a quick five, ten minute walk back. Thank you.

>> Mayor, count similar. David Sorola for the law department. This might be overkill. Out of an abundance of caution, if you could just -- I could prepare a script for you. Cite the item number and I'm assuming it's 551.071.

>> Mayor Adler: It is, so we request talk to legal counsel. Discuss items 46 and 47 quickly. We'll come right back. Thank you. S

[3:48:59 PM]

[

[executive session]

[3:53:47 PM]

[Executive session]

[4:05:23 PM]

>> Mayor Adler: We are back out of executive session. We took up and discussed items -- related to items 46 and 47. We're now back out. In executive session, we're back out. You want to adjust your motion?

>> Pool: What I would like to do at this point is pull down my motion and request a motion instead to have a one-week postponement so questions that have arisen in my office and possibly with the mayor pro tem could be answered and put this on the agenda for next week.

>> Mayor Adler: I think there were legal issues that were raised relative to the extent of negotiations that we could have when we're doing a covenant amendment and legal has asked for some time to take a look at that and come back to us. And we think that could happen quickly. The motion is moved to postpone this. Come back in a week. Is there a second in that motion? Ms. Houston seconds that. Councilwoman tovo?

>> Tovo: There were a couple of issues that members of the development team were amenable to potentially adding a requirement to file for historic landmark designation and also I'd like to talk about the applicant about about some historical standards -- some restoration standards. Not now -- but there may be some other things that we can talk about with regard to it.

>> Mayor Adler: Okay. So the motion is to close the public hearing and postpone this matter for a week so it will come back up. It's been seconded?

[4:07:24 PM]

Any further discussion? Those in favor of the one week? Raise your hand. Those opposed? Those abstaining? Mr. Zimmerman abstains. Gallo and Casar off of the dais, others voting yes. The next item we can call. Everything has been set. Yes?

>> Tovo: I don't know if it makes sense to maybe set a time certain or commit to bringing its up earlier on the agenda next week so that everybody who came here today doesn't have to sit through a whole other meeting next week? I don't know if they're>> Mayor

Adler: I don't have any of this. We're covering it early in the meeting. Said it was a 10:00 call and not related to that.

>> Zimmerman: Did we close the public hearing?

>> Mayor Adler: I said that out loud.

>> Zimmerman: Sorry I missed it. Sorry.

>> Mayor Adler: Okay? All right. So just --

>> Just to be clear, that was 46 and 47.

>> Mayor Adler: 46 and 47 both. Okay? Let's go up on item number 53. This is conducting a public hearing and considering a resolution. We have no one signed up for this. Going to open a public hearing on 53. We have no speakers. Is there a motion to close the public hearing on 53, Ms. Pool, seconded by

Mr. Zimmerman. Those in favor, raise your hand, those opposed? Unanimous with Gallo and Casar off of the dais.

[4:09:25 PM]

>> Mayor?

>> I need to read into the record.

>> Mayor Adler: All we did was to close the public hearing.

>> Yes, that was just to close the public hearing.

>> Mayor Adler: Just to close the public hearing.

>> Perfect. Item number 53 is a public hearing in accordance to chapter 26 of the parks and wild life code. The request also the utility department to install a water distribution to have a water system to the downtown central business district. A quarter loop through downtown to recorrect the system north and south of the Colorado river. Requires a change of dedicated parkland. Butler park schole beach park and public square park all in district 9. The project will require 18,460 square feet of permanent use, temporary working space, and 6,502 of temporary staging area to construct, use, maintain, repair, and replace the water transmission and distribution means for construction of a portion of the main to junction 420 project. The legal fact finding for this item is that there's no feasible or prudent opportunity to be use of the dedicated parkland which includes all planning. The days of public notification in the Austin American statesmen were February 28, March 6 and 13 of this year. This includes temperature presentation. Any questions?

>> Mayor Adler: Is there a motion to approve item 53? Mr. Zimmerman? Ms. Troxclair seconds. Any other questions about this item? Okay. Then call a vote. Those in favor of item 53, raise your hand.

[4:11:26 PM]

Those opposed. Seven on the dais. Off is Gallo, Casar, pool, and Renteria. It passes 7-4. Thank you. All right. That gets us Thoen the remaining items. On our calendar. All of which I think we said we would not call before 4:30. That's items 14 and 15 as well as items 20 -- 19 and 20. 14, 15, 19, 20. I think we're down to those. We said 4:30. It's 4:13. We'll be in recess and we'll be back here at 4:30.

[4:44:51 PM]

>> Mayor Adler: We're going to call up 14, which is the workplace discrimination, harassment, and retaliation item. We have 20 speakers. All of them are speaking in favor of this. That would ordinarily take us to 60 minutes. I'm not sure that we need to hear 60 minutes. Probably people would be repeating themselves, or repeating others. And we have four items tonight that are going to have a lot of speakers with them. Mayor pro tem, do you want to make a motion on this?

>> Tovo: You know, mayor, I'd be happy to, or I'd be happy to hear the speakers first.

>> Mayor Adler: Why don't you go ahead and make your motion.

>> Tovo: Idle like to move approval of item 14.

>> Mayor Adler: Is there a second? Ms. Kitchen seconds that. We have speakers to speak on this item. If any speaker would like to just have it recognized how they're -- what their position is, we could certainly do that as well. The first speaker is Gus Peña. The next speaker is David King.

>> Mayor Adler: Mr. King.

>> So, mayor, thank you. I'll be very brief. And happy birthday.

>> Mayor Adler: Thank you.

[Laughing]

>> And thank you for bringing this resolution forward. I think this is real important that we do this. And I would hope that we would have a unanimous vote on this, in favor of this. This is the right thing to do. And to do the right thing by our employees, and to set the standard for our city here.

[4:46:53 PM]

So I applaud and thank the sponsors of this resolution for bringing this forward. Thank you.

>> Mayor Adler: Thank you. Chrissy O'Brien. Next speaker is Carol Guthrie. On deck is Susan Scalan. Is Jeff Treyvayon here? Okay, you have six minutes, Ms. Guthrie.

>> Thank you. I hope y'all will vote in favor of this. This has been a long time coming. We have a system at the city of Austin that is broken. And this particular move will help change the culture and hopefully create a new process that is more equitable and fair for all city employees. I want to read a statement that was given to me when this first started. And this is from a city employee who wants to remain anonymous for fear of retaliation. So, it says, contrary to Mark Ott's assertion, the remarks made in the reference training, having to do with working with women or something along those lines, are not reflective in any way of our culture, philosophy, or approach towards managing the organization in fact I have witnessed at least two training events where women are stereotyped as selfish and not team players. The city of Austin

has systematically desensitized the treatment of women through training. In 2014, I attended required diversity training presented by the -- human resources department. The presenter apologized for required them to be there. The training focused on women in the workforce. It showed a woman asking her manager why she was not assigned to a project.

[4:48:56 PM]

The group discussion led by human resources discussed how women may use their gender to be assigned better projects. Even further, the discussion allowed for negative, disparaging comments such as, she's just out for herself. The response from human resources was how someone interprets a behavior is very subjective. This was a very flippant comment that demonstrated tolerance towards discrimination. Another mandatory training was ethics 2015, where it showed women selling makeup in a conference room, despite the need to conduct a business meeting in that room. It showed women deliberately disregarding a serious business need in favor of selling makeup to look like the pop star Beyonce. Overall, these portrayals of women by the city of Austin human resources department exemplify the culture that women are out for selfish gain at the expense of the organization. This culture has led to the tolerance of serious egregious acts against women, because when a legitimate complaint is brought forth, it is regarded as women overreacting and need to calm down. I cannot give specific details for fear of retaliation from human resources, which I have experienced. I also would like to share a more recent story that occurred not too long ago. And that was a young woman who works in a department and has filed an eeoc complaint. And she had filed an allegation against someone in management trying to protect her. So it's difficult for me to tell you. But, anyways, we went to this investigation. And while we were in this investigation room, in the middle of them asking her concerns, they stopped the meeting and said, "We're ending this meeting because we believe that you are on drugs." Now, I was in this meeting.

[4:51:13 PM]

I was quite shocked. The woman was humiliated, obviously. She was an African-American female. She was not allowed to leave in her vehicle. I had to drive her to her house. But as we were on the way there, I said, you know, all of those people in that room claim that you're on drugs. I know you're not on drugs. I told them you're not on drugs. You told them you're not on drugs. So we then had to detour to go and get a drug test so that in case this came up about her employment, we would be able to prove without a doubt that this woman was, in fact, not on drugs. And we felt that this was just another way of trying to intimidate and disparage people, employees, from coming forward with legitimate concerns. So we know the need is here for this resolution. And I do hope that you will all support this. It needs to happen. Thank you very much for your time.

[Applause]

>> Mayor Adler: Susan S., is she here? Judy Cortez. Judy Cortez is going to be on deck. You have three minutes if you want it.

>> I'll make this short. I want to tell you a story of how an older female had her job taken away from her and given to a younger male. The female was my division manager. She hired a supervising engineer. A position became vacant for a development services manager. I mentioned to the supervising engineer I heard he was going to apply for the position. I asked him why he would apply for a demotion in pay.

[4:53:16 PM]

He said he had talked to them and they told him to go ahead and apply, and they would "Fix it." He told me this. This is not hearsay. He applied, and surprise, he got the job as development services manager. Within a few days, he was given a promotion to managing engineer, along with a big salary increase. Additionally, all of the employees in the division were all working for him, and no longer working for their former female division manager. She was told she would be doing a training program for the department. When asked in the first staff meeting what was going to happen to the former female division manager, the new male managing engineer laughed and said, "I guess she's getting her resume together." I do not find the situation funny. It, indeed, was fixed for him. And I want to know how can this process be considered fair to anyone? What about the people that may have applied for a managing engineer position had they known that would be the outcome? This was a blow to the former female division manager. She was humiliated. The level of disrespect was disgusting. She was disposable and not valued as an employee. I do not understand how this can be supported by the director of the department, let alone how does human resources condone this practice? It appears that anything can be done through the loophole of, and process of reorganization. This new manager became my supervisor by default. He proceeded to make sure, through every means possible, to deny my requested reclassification, all the while doing everything possible to help my male counterpart get his re-class. He also told my coworker that he wanted to get rid of me. When I took my complaint of discrimination to hr, they dismissed my complaint without an investigation. I want to thank the human rights commission for hearing our stories and making a recommendation to council to resolve some of the discrimination and retaliation issues that city employees are facing.

[4:55:16 PM]

However, one thing is missing from the draft resolution, and that is the reorganization process that can be used to demote and promote employees. There's no recourse for employees that come out on the demotion of duties and job title changes. I am requesting that council please consider closing this loophole to make all actions by directors and managers, and human resources, fair and accountable. I took time off to attend a recent trial where a female city employee won a case of retaliation. What a horrifying experience for

her. She waited for four years to get to trial, and during that time was continually retaliated against because she complained that she was being discriminated against.

[Beeping]

>> Mayor Adler: You can conclude.

>> May I say one last sentence?

>> Mayor Adler: Yes.

>> I fear, myself, for retaliation standing here and speaking to you. Human resources doesn't think there's a problem, and I would say to you, therein lies the problem. Thank you.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: Abby is the next speaker on deck. Ma'am, you can proceed.

>> Thank you, sir. Hello, mayor, and city council members. My name is Judy Cortez, and I'm proud to be president of one of the unions -- best unions here in the city of Austin, local 1624. I am here because I want to read a letter from one of our members, and also a city of Austin employee who could not personally be here, because she was afraid of retaliation. Retaliation is one of the continuous things here. I'm here to tell you that females within the city of Austin are not allowed to join the ranks of their male counterparts. I am considered equal in my male peers except in title and money, which means I work twice as hard and get a good old pat on the back. I am told the paperwork to make things right is in order, and that the title and pay adjustment is just around the corner.

[4:57:17 PM]

Yet, nothing ever happens. And I wonder, after months and months of no activity, why I am being lied to. The request for equal pay is acknowledgment, but how does the actual approval get lost at a department level, corporate hr level, or even at city hall? Losing out on thousands, yes, thousands of dollars per month has created a personal hardship for me and my family, and is pure discrimination. I shouldn't have to hire an attorney, or initiate an eeoc complaint, but I will. Why does the burden to get results fall on my shoulders? Corporate hr should be looking for a meaningful resolution. I work for a male director. Again, my male peers make thousands more than me per month. In several departments, it is only men who are in the top positions, and why is that? The answer is simple. Because women are not considered equal. We just want equal title and equal pay. Pass this resolution, please. Corporate hr needs to round up all the outstanding requests for equal title and quality pay and process these by the end of the day. Now, I want to also stress that gender gaps are counterproductive to the success of the city of Austin. Pay disparity further leads to inequities in overtime, contributory requirement, and social security. We are here to help close this pay equity gap for women, but most importantly, let us not forget the Lily Ledbetter act. And her

sweat equity. Let's firm up some of these loose policies in support of women getting paid the same as their male counterparts. And here's food for thought. April 12th, 2016, is equal pay day, symbolizing how far into the year women must work to earn exactly what men earned in the previous year. Thank you.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: Is Christina Ortiz here?

[4:59:21 PM]

You can come up. You have three minutes. Have you donated your time to this speaker? You're going to be speaking. Okay, then. You speak first. And you have three minutes. And then we'll call, then, Christina Ortiz to speak. Thank you.

>> My name is bobby vigil, a civil engineer. I have been working for the city for 27 years this week. I'm going to tell you that it's very important for city employees to join forces to challenge the city's tolerance against -- towards discrimination, retaliation, and harassment. Otherwise, we cannot be successful. It's very hard to come here and speak out. And I can tell you that by experience. But I also see my colleagues living in a hostile environment that is not supportive at all. Let me tell you in a couple of minutes a little bit of part of my story. I felt discriminated when I worked 23 years for the career, first time in my career. I told my director that I was feeling discriminated. We decided we were going to do some followup. The day after, the next business day after I had the meeting, I received an outlook invitation from the human resources of my department calling interview. So I was thinking, what proactive the city of Austin, I just went and talked to my director the day before. Now they are doing an investigation. How far from the reality I was. How naive I was that day. I went to the meeting. And I received a shock. I was sent home with a written reprimand, final warning, subject to termination, because I was told that I yelled, that I raised my voice, and I was not respectful to my director. How untrue was that letter filled out. However, I went home. I was sent home. I came back with a letter. And I asked to please remove that written reprimand from my record.

[5:01:21 PM]

I care about my record. I wanted to have a career in the city. I was not planning to retire from the city at 23 years. I wanted to work for 33 years, that was my goal. However, I went back -- came back to the office. I presented the letter to my director. And I asked this please, rescind it. A couple of weeks later, after a lot of emails, I received another invitation from hr corporate. At that time, the subject of the meeting was one-on-one interview. I was thinking, great. Now they are going to do the investigation about my concern discrimination. How far from reality I continue being. No. They were investigating to

make sure that the written reprimand, that it was full of untruth statements, that was going to stay on my record. And they were not going to rescind that. After that day, retaliation began against me. It was not only against me. It not only affected me, it affected my staff, affected the citizens of Austin, because they threw obstacles in my projects, they delayed my projects. And those hours, just because I went and said I feel discriminated. I went to trial. I didn't have any other resource. I went to human resources, the assistant city manager's office, I told him, please believe in me. They have an investigation, but I needed to ask for an open record request.

[Beeping]

>> Somebody was going to donate time?

>> Mayor Adler: I'm sorry?

>> There's three people that signed up who would like to donate their time.

>> Mayor Adler: Okay. Give me your names so the clerk can hear. Why don't you stand up, please.

>> Christy o'brien.

>> Mayor Adler: She donates her time.

>> Katelyn brown.

>> Mayor Adler: They donate their time. You can continue.

>> So, I was waiting for the investigation to come to me. And I asked in emails, the status. I called hr corporate. I didn't know that as an employee, you don't have the right to receive the investigation.

[5:03:25 PM]

You need to ask for an open record request. However, the director, the human resources director, the assistant city manager, everybody receive a copy of my report except me without the open record request. So I finally received my report. And the report said that I violated a city policy, therefore, the written reprimand was going to stay on my record. I decided that I needed to continue working for the city despite all the retaliation that I had received, but I needed to hire an attorney. So I had an attorney. And after four years that that incident happened, I went to trial. And I won the case a couple of weeks ago. And the jurors sent a very strong message to the city to stop this. However, I went back home and I decided, how come I can't continue working for an organization that I love for so many years, but it has a broken system? An organization that it doesn't care about unveiling the truth, and giving the employee the support that they need at the time when they are right. And we have rights. So, I went back to the office, and I decided to retire, a lot, lot sooner than I thought I was going to require. My last day will be March 31st. I'm retiring from a job I love with passion, a job I wanted to come every day despite the retaliation that I was receiving, with a positive attitude. I never told my staff what I was going through. I always told them, always do the right thing. So today, I just want to tell you that I think the city has a lot of

opportunities to change. But you cannot be in denial. Hr cannot continue saying there is not a problem. There is a problem. And I'm an engineer. And I like that we do assets management. And we are so worried about infrastructure. But the best asset that the city has is their employees. If you manage -- if you don't manage the way you treat employees, we won't be successful as a city.

[5:05:28 PM]

We need to have a livable working place. Thank you very much.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: Hang on, please. Ma'am. Mr. Zimmerman, do you want to talk?

>> Zimmerman: I have a question. What was your case number? You had a case that went to trial. I wanted to know what that case was. I'd like to look that up, and . . .

>> I love Numbers, but I don't have the case number.

>> Zimmerman: Okay. Well, you know where I work. Please send that to our attention and any other information, okay? I'd like to know the facts of the case.

>> I will. Thank you.

>> Zimmerman: Thank you.

>> Mayor Adler: Okay. The next speaker is Jennifer Mcfarland, and dean Smith is on deck. I'm sorry, I skipped you. Why don't you come up, please.

>> Good afternoon, I'm a representative speaking on behalf of the city employee who wishes to remain anonymous for fear of retaliation. Good afternoon. I am a city employee, and I have been working for the city of Austin for ten years. It has been my experience that the city of Austin hr department is operating under a facade. During my tenure with the city, I have experienced discrimination based on race and gender. Recently, I filed a formal discrimination complaint, and I obtained outside representation. It was to my disbelief that a senior management staff at hrd contacted my representative in an attempt to get my representative to not represent me. This action depicted a real problem within the city of Austin's hr department. As a city employee, I am entitled to representation in accordance with the municipal civil service statute. I have a right to seek outside representation. I have spent 30 plus years in hr, and I have never experienced such blatant disframatory treatment in any organization. There is a need to take into account the right of due process when an employee has been discriminated against. The current policies and procedures designed to address discrimination are not being adhered to.

[5:07:32 PM]

The department that is overseeing action such as discrimination, retaliation, and harassment does not consider the best interest of the city of Austin employees. I am requesting that the city management office take a look at what is going on within the city of Austin and take a real stand to protect the rights of its employees. Thank you.

[Applause]

>> Mayor Adler: With dean Smith on deck. Ma'am.

>> Good evening, councilmembers, mayor Adler, city manager Ott. My name is Jennifer McFarland, a constituent of district 1. I've been employed with the city of Austin since 2001. I stand before you this evening to ask you to consider stories myself and others have to share when making your decisions regarding changes to the city's discrimination policies and related investigative processes. Notwithstanding Forbes ranking us number 22 on a list of America's best employers, there are some who have experienced a different aspect of working with the city that should not be discounted. Imagine there could be a black woman who might have to fight racial bias and prejudice in her city employment just to keep her job. Imagine there could be a black woman who was subjected to retaliatory actions simply because she exercised her right to utilize the union assistance to fight those racial biases and prejudice in the workplace. Imagine this black woman could be denied fair process from the city when seeking reclassification and be further subjected to questionable and inappropriate actions, not only at the department level, but at corporate level management in the grievance process to right the wrongs exacted against her. Imagine for years this same black woman's character being continually attacked in the workplace, and being labeled as a malcontent for standing up for her rights. Imagine a black woman after years of committed service to the city, and after having continually performed above and outside her job title and pay grade, might yet again be repeatedly denied the opportunity to prosper through the city's reclassification process, a process that was manipulated by departmental management to require two black women to perform dubious tasks to prove their worthiness to receive a reclassification rather than rely on the proof of duties that they performed.

[5:10:01 PM]

And imagine this black woman being left with no other option but to seek help and relief from a federal agency rather than, again, being dismissed by the city process that has failed her on more than one occasion. I stand before you as that black woman, and ask you to consider what you have heard as you begin your task. And as I just found out, my department has agreed to go ahead and allow me to go through the process fairly for reclassification. This was only achieved after I filed an eeoc complaint. I thank you for your time.

[Applause]

>> Mayor Adler: Dana Smith is here, and Austin tally.

[Off mic]

>> Mayor Adler: Okay, thank you. Dana Bartholomew.

>> Hello, city councilmembers. My name is Austin tally. I began my career here in 2013 as a supervisor at Austin resource recovery. Six months later, I was hired out of 17 candidates as operational division manager at Austin transportation. I have since moved on as business process consultant as public works. There seems to be a lack of concern. I have witnessed and experienced by management level and higher who seem to operate with unofficial guidelines outside the written formal policies. That result in temporarily covering up their personal management failures that cost the city in loss of effective employee skills, unnecessary turnover of employees, and face possible litigation for injury when it comes to handling internal employee complaints regarding discrimination and other grievances.

[5:12:14 PM]

I have dealt with discrimination complaints at all levels of management -- the department in hr, the department director, hrd employee relations, hrd supervisor, hrd assistant director, hrd director, and the assistant city manager. I felt it was necessary to report directly to city council the failures of the current staff to take these matters seriously. When they fail to follow their own city policies. I have seen several solutions tried by management level or higher, including forcing employees on administrative leave for ten to 12 months at a time, affording management to develop a cohesive narrative to counter the accusations. Other steps taken by management level or higher are to terrorize, coerce, and even offer a quid pro quo so that the city employee withdraws their complaint, forces them to be in a situation of quitting their job, or gets fired, because then the city has time to make counteraccusations themselves. In previous cases, I have seen management drag their feet, find the complaints inconclusive, infounded, then kick it back as unresolved, only to expose the city to litigation over improper complaint management. To me, this process has been nothing less than intimidating, as it became a personal attack on my integrity. I have taken great pride to build my reputation, and knowing my name is only as good as my word. Having held some of the highest federal government clearances, every part of my life has been under a microscope. In my past career, I have been in the company of great leaders, like former cia director George tenant, ambassador black, while working at a D.C. Think tank, James at U.S. Central command.

[5:14:29 PM]

[Beeping]

>> My list goes on.

>> Mayor Adler: You need to conclude.

>> Integrity isn't measured when things are easy, but when things are hard and not popular, when no one else is looking. In my professional opinion, the city does not handle the process which puts them in continues legal liability. I recommend that a private company be hired to conduct these investigations, or create an investigation department that only answers to the city council.

>> Mayor Adler: Thank you very much.

>> Thank you.

>> Mayor Adler: The next speaker is Francia.

[Applause]

>> Mayor Adler: And then Veronica.

>> Good afternoon, Mr. Mayor and city councilmembers. My name is Dana Bartholomew, and I'm a member of asme local 1624, and a county employee. I'm reading this statement on behalf of a city employee who prefers to remain anonymous. This is what she has to say. "I've been a city employee for almost 20 years. I'm a female over 50 years in age. I've brought my issue before the human rights commission and the council on women. For the last three years, I believe I have been discriminated against. My story begins with a job I co-chaired with another employee for over 11 years. We were a team of efficiency. And then my coworker retired. I got a new coworker, a man under 40 years of age. We had identical job titles. After I trained him, 13 months later, he was reclassified to a new job title. He has been elevated five pay grades above me, and now receives \$17,000 a year more than myself. We still share the same job and the same duties.

[5:16:31 PM]

It's been three years, and I'm still requesting the same consideration, and still being denied. Because I have complained about my discrimination concerns, I am being subjected to retaliation to this day. I thank councilmember tovo for bringing this forward, and urge the council to support item 14." And on behalf of me, thank you for this opportunity to read this. I strongly encourage 100% support of this resolution. Thank you.

[Applause]

>> Mayor Adler: Thank you. Is fransia here? Is Johnny Martinez here? Thank you, sir. Is late here? Is Carl Webb here? You have nine minutes, ma'am.

>> Thank you, sir. Good afternoon, ladies and gentlemen, mayor, and councilmembers. Thank you for allowing me this opportunity. I'm very grateful that you have provide this moment. And I thank the lord for allowing me to be here to take advantage of this moment. I speak, and based on my speech, through a case. And I'm going to tell you what I have seen in three decades in the city of Austin. If an employee

decides to write a complaint and submits the complaint, it's submitted to the local hr department. This is what happens. Yes, we received your complaint. Yes, have a seat. Please, sit down so we can take notes and have more documentation about your case. Let me do so. What else? Tell me. Yes. Yes, yes, I will do it. No problem. The next thing, oh, we'll get back with you.

[5:18:33 PM]

We will tell you. Time passes. And passes. The employee comes back and says, can I get an update on my case? Oh, guess what? We are fact-finding. We will let you know later on when we find the facts. Time passes again. And passes. And sometimes, not weeks, but months pass when the employee then gets upset. Then the employee goes back and says, what is the conclusion? Could you please tell me? Oh. We are so close. We are so close. We are really finding. I'm going to go ahead and proceed. If you don't give me an answer. There's no need. I will have the fact-finding for you. Time passes again. You say, oh, by the way. They finally called the employee. Guess what? After we did all this fact-finding, we decide that, no. There is not enough information to go ahead with your case, because your case doesn't merit. The individual that did the wrong, he said, or she said, I'm sorry. He or she didn't mean to offend you or to have done the things that they had done to you. Therefore, we decide, no case. No merit. Bye! So, then, if the employee says, says, no, this is not going to stay this way, I'm going to proceed and go to the hr corporate, then the hr department in the local department says, okay. Let's do plan B. What is plan B? They discredit the employee. They make sure that your credibility as an employee is bad, that you are no longer a trustworthy employee, that if you try to then resolve the situation yourself by applying and going to another department, then they blackball you to make sure you don't move to any other department.

[5:20:43 PM]

So in conclusion, the employee is held down with no need, and even though the employee is trying. And that's where you see that you go to the eeoc and everything else. But if the employee is insistent and continues on, they say, oh, well, maybe, because hr corporate says there's something in there. Let's apply plan C. What is plan C? Oh. Let's take the offending employee, let's move the employee to another position, and by the way, make sure it's a promotion, because they did the wrong thing. And if they cannot do it within the department, oh, let's move them to another department and make sure that they get a promotion, because we need an ally employee in case we need to call upon them. So, these are the things that I have experienced in three decades. I definitely have experienced that. In another matter, I have several things, that's why I have to go quite quickly. Then, the next thing is, what is the usual behavior we get? Don't expect anything. The worst is when you are a female, especially if you go against upper management, forget it. If you are a male, maybe you've got a better chance of some action happening. Now, what about respect? Well, being a woman in it, I can tell you I've had my share of disrespect because I am a woman in a so-called field that is for males. The reason this is happening is because we are not allowing our females to have the opportunity to enter in such an arena. If you allow

women to come in, you will see they are as good as males can be, if not better. Well, what about so-called integrity? Oh, yes, please, submit anything that you see wrongdoing.

[5:22:47 PM]

Well, okay. I submitted something that I saw was wrongdoing. But what was the end result of that? Well, we just had the training for purchasing 101, so it was just a matter that the person didn't know what was correct. Or he should've been trained. Guess what, let me tell you what's wrong with that statement. The employee was hired to be a city buyer. So if you're hired to be a city buyer, you need to know what are the city rules. The employee had been performing the job for more than a year for sure. At least a year, let me be kind, at least a year. But at the end, I had to withdraw and let it be because if I had continued, I would be the one holding the bag. Or being retaliated on. And by the way, I was retaliated on. And things are continually that way. Now, what about the municipal services? Something that I'm getting lately on the municipal services are, well, these are some checks and balances that, thank you, they have passed. And we thought, well, they said relief. Well, now some of the feedback that I'm getting is that when cases are coming up, the commission is taking what the corporate is suggesting instead of taking and making their own decisions knowingly that what has been suggested is the wrong suggestion. So my question is, what are we going to do about our checks and balances if corruption is getting to that level? How is corruption going through even our checks and balances that we just recently have placed in?

[5:24:48 PM]

What is it? I appreciate you guys taking this, because I never thought that I would see this moment in time. So, I thank you. And by the way, know this -- I will be retaliated on for having made that statement and standing on behalf of the rest of my coworkers in the city. Nonetheless, god is with me, and they say if god is with you, who is against you? No one. Further, I appreciate it. And we always heard this conclusion -- this statement. Oh, in the next century, things will be resolved. Well, guess what, ladies and gentlemen? Members of the council, and mayor, this is the next century. We are in the 21st century. So I appreciate you taking care of it. And councilmember tovo, thank you for taking this baton. Thank you.

[Applause]

>> Mayor Adler: Okay. And then amber Roland is on deck.

>> Good evening, mayor, and councilmembers. And city manager. I know that you're hearing the same things over and over, but I do feel compelled to speak. One, I have a daughter who I'm a role model for. And I just think it's important for you to hear as much as possible. We should require unwavering protection against hostile work environments. This these times when neither management nor hr does what needs to be done to ensure justice for the employees when we are put in the un-unfortunate position

to protect ourselves from wrongdoings. The way you're dealt with when you file a grievance is one of three ways.

[5:26:51 PM]

You're shuffled off to another department to become their problem, you're left hanging, or your case is found in favor of the accused for lack of sufficient evidence. I've been witness to and have experienced these situations on an ongoing basis, and most of the time, the employee is left assuming the burden. Guess we're supposed to just be glad we have a job. Who cares if we have to endure these hardships throughout our career at the city? Just imagine how this negligence affects the well-being of employees' lives and their careers. I was shuffled off from the city manager's office after filing a grievous claiming a hostile work environment and harassment. I was left hanging for years now after filing a grievous of racial and gender discrimination, as well as retaliation at the ctm department. And my sexual harassment claim was found in favor of the accused, although many others have filed their own grievances on this same person for similar and other infractions. Each time in favor of the accused. It seems upper management in particular is protected. Otherwise, how else do you explain the same people getting away with the same transgressions time and time again? We're required to go through ethics training when the most serious ethical violations are carried out by the management and by hr's compliance with Thi behavior. Outside entities can rank us high in cultural diversity and as, quote, America's best employers. But speaking from my experience and witnessing others going through similar hardships at the city, I want say awards don't reflect the way things are. Rather, they reflect the way we want to be perceived. We need someone other than the usual cast of characters to look out for our well-being as city of Austin employees. Human resources at the city of Austin is there to protect the interests of the city management, not the interest of its employees as a whole.

[5:28:57 PM]

If hr would follow an equally applied policy and procedure to protect its employees, we would have the need -- we wouldn't have the need to go outside the city to resolve our grievances on discrimination, harassment and retaliation.

[Buzzer sounds]

>> Mayor Adler: You can asking.

>> I want to go on record that after standing here today there is a good chance I will be retaliated against so I would like this to be duly noted and provided as public record.

[Applause].

>> Mayor Adler: Sandra Rowling and then Sarah Fusco. She is the last designated speaker. Ma'am?

>> Thank you very much, council. I appreciate you taking this up at this time. I won't say a lot about my own situation. It's a long story. I'm happy to share it with you with any of you interested to know the full story. I hope as you undertake these considerations or any investigation that you please be sure to -- I am an employee of the city of Austin. I am with the health and human services department. I served for 14 and a half years in animal services and I was recently removed from animal services and ran into considerable hurdles in grieving my removal from that department. I hope that you will keep in mind issues of discrimination based on creed as I do believe that there are significant issues in that area, especially at animal services that I am very aware of and that my former co-workers are experiencing -- continue to experience. I also hope that you will remain aware not just of terminations or demotions, but also the fact that many employees have had their career tracks terminated by transfers. So even though I have been transferred to a different department, my career as an animal welfare professional was cut off completely through what I feel is unfair means, and I have run into roadblock after roadblock in trying to contest the actions that were taken against me.

[5:31:03 PM]

So please keep in mind creed and please keep in mind the termination of an employee's career path as some of the -- some of the tactics that have been used and have applied -- have been applied to city employees. I am a long time beast city of Austin. I was hired in 2001. Always had excellent performance records, never had any issues and yet I was transferred after a bogus claim and a very bogus performance review. I very much appreciate you taking up this issue. I think there are a until of elements that need to be addressed and fixed and I'm glad that they are coming to light.

[Applause].

>> Mayor Adler: Mr. Zimmerman, hold on, please, ma'am. Mr. Zimmerman.

>> Zimmerman: I don't want to ask you to do something that you're not comfortable in doing, but I just get frustrated listening to generalizations. To me their generalizations. There are a lot of details behind -- I know people are just summarizing --

>> Three didn't isn't a very long time.

>> Zimmerman: It's not very much time. But when you mention creed, I guess my -- I think when I think about creed, for example, in animal welfare, someone could have a creed that they don't want any animal to ever be euthanized. That could be a creed. Another viewpoint of creed says well, some person, they love animals, but they say, you know, some animals may have aggressive behaviors. I don't think these animals can be rabbited, they -- rehabilitated, they could be a danger to people. Those animals need to be euthanized. Different creed.

>> Yes.

>> Zimmerman: How is it possible to manage these mutually exclusive beliefs and creeds. One person sincerely believes in a certain creed. Someone else has a different creed. I can't satisfy both. They're mutually exclusive. How can that be managed without one or the other person, right, claiming their creed is being discriminated against?

[5:33:06 PM]

>> I understand your point and certainly in my nearly 18 years in the animal sheltering industry I've gone around and around with this. But I believe that that was a factor in the actions -- the employment actions that were taken against me. And I believe that it is an issue that is -- it continues to be an issue in animal services now with employees who are there who are concerned that because -- and honestly no one has asked what my creed actually is and where it lies in comparison to someone else's. I don't think that would necessarily be an appropriate conversation to have. What I do think is that as long as an employee is performing the duties that they've been asked to perform and they perform those duties to the standards that have been set, that there should not be -- they should not be moved from their position. They should not be transferred or demoted or disciplined. If they are conducting the duties that they have been asked to perform. So like I said, you know, I have lots of details and I'm happy to speak with anyone who is interested in following up. But again, three minutes isn't a very long time. I would say that, you know, anyone can believe anything, and an employer needs to be careful about not impacting that employee's career because of what that employee believes as long as those beliefs don't interfere with the work that they're expected to perform and that they actually perform and perform well.

>> Zimmerman: So to be clear, in case you didn't know I've not been a fan of city management. I campaigned on replacing city management. But I don't want to put city management in a catch-22 position, right, in an impossible position of trying to judge between employees' creed and some mutually exclusive environment where no matter what they do, one or the other person is going to claim discrimination based on their creed.

[5:35:07 PM]

I'm trying to get away from these impossible catch-22 situations that management may face. I appreciate your comments. Thank you.

>> Mayor Adler: Thank you. And then we have Amber. That was Amber, I'm sorry. Sarah Fusco.

>> Hi, thank you, councilmembers, mayor and city manager for listening to us today. My name is Sarah and I've worked at the city since 2007. I don't usually come and speak up in front of council because this is outside of my job responsibilities, but this is extremely important to me. I thank you, councilmember Tovo, for proposing item 14. I fully support it. I have a few recommendations, but first some background. My career at the city has been marked by discrimination, harassment and retaliation. The last question

and my first interview with my previous director was do you know how pretty you are? Soon after it was do you know how many women would cut off their arms to look like you? Which of course nobody knows how to answer these kind of questions. After, I guess, not doing exactly what he wanted me to do or reacting how he wanted me to, he started retaliating. I had surgery in early 2011 when I came back to work. I had no idea, but the old boss had my computer surveilled for about a month. And then he started getting photos and video of me walking throughout the building over a period of four years.

[5:37:12 PM]

He got photos and video the first time with business justification saying that he wasn't sure where I was, when I said I was going to be there. I didn't even find this out until after I filed a complaint. I was denied promotion twice, even though many of us in the same work group, as you've heard, do a lot of the same job duties. After I filed my complaint he started harassing me more, could not let me go. I mean, he was almost obsessed. I almost got sick at work, so I was put on administrative leave. He was made to retire. It was one of the very few cases where my claim was substantiated. And on that note I do want to thank hrd because they have a very tall order. They do a good job with the resources they have, but at the same time I went right back into the lion's den, if you will. And certain people to the old boss continue to retaliate --

[buzzer sounds] Do you mind if I go on just a little bit more?

>> Mayor Adler: You can wrap it up.

>> So my recommendation because I tried to go through all the city processes, I asked for mcs hearing. I was told I emailed the vp so that technically removed me from that. I asked for a desk audit. I was denied. I was asked for a reclassification, denied. I filed with the eeoc. I've hired an attorney and I'm just trying not to be afraid anymore. So thank you so much.

[5:39:19 PM]

[Applause].

>> Mayor Adler: Thank you. I think there are another 40 people who have identified speaking in favor of this, but have asked not to speak. If we have staff here is there a staff preparation to give to us on this issue?

>> Thank you, council, my name is Joya hays, hr director for the city of Austin. In the response that came before council in the work session on Tuesday I am here today to provide some information to you relative to our current policies and procedures relative to discrimination, retaliation and harassment. I'd also like to come before you today to share information relative to the current avenues for which employees can file complaints. Practices and protocols currently in place P background on how we got to

our current policies relative not only to our chapter 8 procedures relative to these topics, but in addition the municipal civil service rules that are in place for filing such grievances and feedback to the resolution has been presented by the council. Let me begin by saying that one of the primary goals of human resources is to make sure that there are processes and procedures that address the needs of all employees. As you can imagine with over 8,000 employees that are non-sworn it is a challenging task to meet the needs of all employees in a way that is deemed to be appropriate and equitable at all levels of the organization. As we go through these policies it is my intent today to give you just a general understanding as to the infrastructure that is currently in place to allow you a better opportunity to make decisions relative to directions moving forward.

[5:41:20 PM]

Currently the city of Austin has chapter 8 policies that give descriptions and prohibitions on areas including harassment, sexual harassment, discrimination, retaliation and unprofessional employee conduct. I would also point under the areas of retaliation we also have administrative bulletins and that information is found within our chapter 8 policies and our fraud, waste and abuse section. I bring these up because I think it's important for you to know that we have clear guideline in place defining what we determine these definitions are for these areas in chapter 8. In addition to that, there are other remedies and opportunities for employees to address their concerns. As an employee goes through the process of identifying issues and concerns their first remedy is to address it with the employee's supervisor. We recognize in many instances employees are not comfortable in communicating with their supervisor or their secondary option, which is through their chain of command to their manager or all the way up through the department director. If they have a concern with those areas, they can also come directly to the department of human resources. I will note that we have a human resources corporate area that has about 100 plus employees, and of those about six of those employees specifically are targeting our employee relations department to address investigations relative to discrimination, harassment or retaliation. With that, though, the departments also have human resources staff and in many instances the departments have investigators in place to address those departmental concerns relative to the investigations of the key areas. So when people think of human resources they may very well be speaking of the departmental staff or they may be speaking directly to human resources. Employees now have the opportunity to direct their concerns to their department, but if for any rope they are uncomfortable with that as communicated by many who provided testimony today, they have the ability to come to human resources to address those issues.

[5:43:27 PM]

S in addition to that employees have the ability to go to the ethics office, to address any concerns of ethics and I would note because in some of the testimony today you received the ethics office is actually found listen the law department and the ethics training is done through the law department in addition to the

diversity. Now, about three years ago we transitioned diversity. It was a partnership between the law office and human resources and now the diversity training is found within the law department. So I want to make sure we're really clear as to where these different areas reside in our current organizational structure. If an employee would like to file a complaint anonymously, there is already a mechanism in place for an employee to file that complaint and that is through the auditor's office. If an employee files a complaint through the auditor's office, be it anonymous or by name, the auditor's office will evaluate the credibility of the concerns that are presented if the department -- if the auditor's department feels like they need to address that independently they will conduct their own investigations. If the department feels like the issues and concerns would be better addressed by the department and/or human resources, we receive a request from the auditor's office providing us the information. We are not provided a name. We're not provided any additional details, simply the information that was found within the actual complaint. If the auditor's office has done any preliminary review of the complaint, they will provide us some details to assist us in guiding us in the additional requests made in terms of looking into the complaint. Once we receive that complaint from the auditor's office, the human resources department along with every department who is receiving these complaints are responsible for providing a response and submitting that response back to the auditor's office. So there's a clearly defined process by which employees can currently file those audit complaints. Information relative to its phone numbers to identify those anonymous numbers found on the auditor's page in addition to the ethics page of the city website.

[5:45:35 PM]

I'd like to talk a little bit about some of our current practices and protocol. HR employee relations staff, the staff I spoke to earlier, the six employees in our department, are highly experienced HR professionals and some would suggest why roadmenning that? I think it's -- communicating that? I think it's very important with us having this opportunity before you right now to speak to the level of credibility and experience that is found within the staff of which we have. While we know that there is no suggestion that we don't have qualified staff, I think it's critical to point out that the staff we currently have, particularly those that are in our human resources department, not only come with a level of credibility based on their experience and their education, but they're also people widely recognized and respected in communities in terms of equity and civil rights. These are the people that we have working for us. And our goal is to create investigations that identify findings based on objectives, balanced, neutral and equitable variables that we look at in all levels of the organization. And that's a difficult task to have the capacity to really reach the needs of employees at all levels of the organization, from those at our lower level positions all the way to those who file complaints throughout the organization. We also want to point out that our investigation practice and protocol aligns with what we find in our professional organizations to include best practice and EEOC guidance. SHRM. And I think you will see that if you have a request to look at our current policies and procedures to put in place safeguards to do our very best to try to establish and maintain consistent policies that address those needs. Now, we truly recognize and in a population of 8,000 people there are opportunities for improvement. There are instances, there are investigations completed where employees are truly unhappy and concerned about those results. We recognize that and we try very hard to address those concerns.

[5:47:37 PM]

In the testimony from which you've received today, employees have the capacity to stand before you in the public and share their side and perspective to their situations and their circumstances. But unfortunately the human resources department due to personnel rules and responsibilities does not have the same capacity to come before you to provide the other side to the stories and the facts that we've had in those cases. I say that not to discredit the people who have come before you, but to simply remind you that there is another side to each instance that allows us an opportunity to truly understand the findings and the justifications and the results of these investigations. Our other reality is that we are tasked as a human resources community -- and when I say community I'm not only speaking of the hrd corporate, but the 200 plus people in human resources that work in our departments to recognize that we see a side of our workforce that others don't see. Every single day we are addressing the unfortunate and sometimes very inappropriate things that take place in any work environment. And it is our job on a daily basis to figure out innovative, equitable, balanced ways to address that. Things that I cannot bring before you in this format and in this time to provide any level of credibility to the people who continue to do the work that is being done by human resources at all levels. Our hr staff also consults with the law department regarding legal and liability matters that take place in all of our investigations. Our employee relations protocols and discipline procedures are in place and we look forward to opportunities to address ways to make those better. In much -- not in much. In some of the testimony you've received today you've heard cases and you've heard scenarios, but what you haven't heard was the opportunity for me, other assistant directors, to stand up and take a stand immediately upon receiving calls from employees, from sscme and media changes to make things right for employees.

[5:49:43 PM]

We say that not to brag, but we share that with you to reiterate the fact that there are ecreditable, -- equitable, fair and transparent procedures in the department and that we will give a fair and equitable opportunity to 400 plus employees who work to create the equity and to maintain the equity. I would now like to take a brief opportunity to kind of talk to you about how we got to the policies that we have before you. If you do not already have a copy of our municipal civil service rules, we are certainly available to provide those to you in addition to our chapter 5 rules, but in 2012 council passed an ordinance placing proposition 10 on the ballot. It was passed November 6, and immediately upon passing the human resources department at the corporate and departmental level, along with our labor relations office and our law department began to do benchmarking. In 2013 we developed a policy advisory group formed of department director and hr managers. To create equity and feedback we also had a peer city review panel where we bought in key cities from around the country who already have existing municipal civil service rules to ensure we were creating rules that were equitable based on best practices around the country. We additionally created stakeholder groups so that employees could have the opportunity to provide the

information. Council also appointed a five-member municipal civil service commission that we worked with to create proposed rules that we presented in 2013 and passed in 2014. Now, I shared that process with you because in that process we made sure that every level of the organization had an opportunity to contribute to the year and a half process that it took to take, create and sustain a new way of understanding policy, procedures and appeal processes. And so that was not a process that was done by an entity of people who were attempting to hide, to circumvent and to manipulate policies and procedures, to negatively affect the employees.

[5:51:50 PM]

Many of the people who participated in that process were employees who gave us very, very critical feedback about our policies and procedures that are now reflected in new rules that you will see before you in the municipal civil service rules we have. I would also tell you that while some may not value the awards we've received, but we actually received an award from tmhra, which is the Texas municipal hr association, who gave us an award for the innovation and how we created and sustained our municipal civil service rules. So I think that's important to speak to the credibility of the existing staff in our capacity to create rules. In that municipal civil service policy that we speak of that are five actions that currently go before the municipal civil service commission. Denial of promotion, disciplinary probation, demotion, disciplinary probation and discharge. I will note that we are very innovative in the fact that denial of promotion is in our civil service rules that you will not see in any other civil service commission in the state of Texas. This process, an appeal process is available to regular status employees and I've listed for you on the powerpoint those excluded from that and the municipal civil service commission decisions are final. So that process is in place. These areas are covered. As we look at the resolution before us today relative to ways of creating betterment in the departments and in the city as a whole, we like to take a very quick opportunity to give you our feedback at each part of your to be resolved sections. In the first section of to be resolved that addresses the need to evaluate our policies, our procedures, our protocols, we stand to you today currently very open to do that. We have already began that process two months ago we looked at evaluating our chapter 5 policies.

[5:53:53 PM]

Not only are we open, but we invite the opportunity for any feedback and we plan to receive it at all levels of the organization. Ways in which we can increase and improve the understanding and the transparency of those existing policies. Relative to the second portion of the resolution, speaking to the city auditor commissioning an external audit, hr is very interested in the spirit of continuous improvement to embrace such an audit, to have an opportunity to provide to you factual information, holistically looking at our organization not only from the hr corporate perspective, but from the department so that we can come back to you and show that, and we can also take into consideration opportunities to improve our current practices and processes. As it relates to the section in terms of third-party appeal process, hr supports the

evaluation of potential review processes. Any review steps should be evaluated, however, to include the potential impact on timely, efficient and effective investigations in the disposition of cases. So I basically share with you while we're very open to the opportunity to look at it, we hope that you understand that our department would like to come before you to talk about how that will impact our ability to maintain efficiency within our ability to get that information out. In addition to that, as we look at the section recommending options for third-party appeals specifically for the municipal civil service commission, as communicated in my earlier memo, I stand firm from the human resources perspective to communicate our concerns with the charter language regarding the inability to authorize such an expansion of appeals and the scope of the municipal civil service. So I think it's very important for us to have this opportunity to communicate to you that we are still very firm on that concern and perspective that the charter does limit that. And I know there are conversations that are taking place with the law department to support and to discuss that in further ways. And that's our same perspective as we look at the final piece of this resolution relative to municipal civil service.

[5:55:57 PM]

So we want to be very deliberate, very honest, and as transparent as we can be in an environment for which we're coming before you behind the words and feelings and emotions and perceptions of employees who truly see a need for change. We stand as partners to that change, but we also stand as experts in this field wanting you to take into consideration our certifications, our education, and our experience that has led to the Forbes number 22 top company in terms of our ability to hire employees. And I would note for Forbes that that is not something we applied for. That's not something we turned in a report for. That was based on 30,000 surveys that went out where people gave feedback relative to that. And I truly believe that of the 8,000 non-sworn employees there are those who don't have the capacity to be here tonight to speak positively to the resolutions that have come directly from the work that has been done by our human resources department. We would like to also point out to you that when we -- when we analyze the 72 investigations between 2010 and 2015, hr cited discrimination harassment policy violations in 9.9% of our calculations where our eec statistics say for the same time period between 2010 and 2014 they only cited a 3.8 rate of findings and reasonable cause. So I think that also speaks to it and we look forward to giving you more information as we go through this audit process. We would also point out to you that in 26 of the 72 investigations that we've done, hrd had findings of at least one policy violation. Every time an employee says it's discrimination, retaliation or harassment, we may not find that to be the violation, but that doesn't mean we didn't find other policy violations for which we noted in our investigation. And we think that is very important as we compare ourselves to the city auditor that during a recent three-year period identified a substantiated findings rate of approximately 26.5.

[5:58:00 PM]

So we not only want to share our comparison in the internal, but we would also like to share our comparison to our external entities that we feel are also notable. Our observations and investigations are currently conducted by professional hr staff who put in anywhere from 20 to 200 hours in every single investigation that we do. By the very nature of these employee matters each investigation is conducted, can result in complaints where they are dissatisfied with the outcome. We accept that. We acknowledge that as just a part of business in human resources. But the escalation path exists already internally and externally for these employees to address in summary, council, we would just like to say on behalf of the full human resources family, including our departments and our corporate office, that we seek an opportunity to ensure and maintain equitable treatment for all employees. We recognize that there are opportunities for improvement. We take into consideration not only the concerns that are brought to us from ascme, but also employees who do not have representation at all levels of the organization and we look to create personnel policies that clearly and effectively address these issues that are very important to you. Multiple, accessible avenues we feel like are already in place and it's important that you know those so that as we move forward we look for opportunities for improvement in areas that don't already exist and ensure a robust, independent investigation process that promotes accountability and instills confidence, is not only what we seek to do, it's what we're charged to do. And we thank you for the opportunity for allowing us the opportunity to at least present to you these policies, these procedures and allowing us an opportunity to give you our perspective on the current resolution. I am also open to answering any questions if you have them.

>> Mayor Adler: Thank you for the presentation. Questions? Ms. Kitchen?

>> Kitchen: I just want to thank you for this presentation.

[6:00:03 PM]

And thank you for the work that you and your staff do. I know that you all put your heart and soul into this. And I appreciate you being in partnership with us and with the city manager as we go through ways to improve the process, which I know that you want to do.

>> Thank you.

>> Mayor Adler: With respect to this proposal and as it's coming out and it's coming to the council, I again just want to say that I appreciate the mayor pro tem's leadership on this issue and willingness to set it out as initiating an investigation to take a look at issues, identifying a challenge and then setting out a process now where the policy issues that have been raised will be looked at and investigated and obviously this now comes back to the council following the conclusion of that work. So thank you, staff, for the efforts you put in as well as mayor pro tem for your leadership on this issue. Further conversation on this before we take a vote? Ms. Troxclair?

>> Troxclair: I just wanted to understand from our human resources staff really quickly, if somebody has a complaint -- I understand that they could file anonymous complaints and that there are processes within the -- that hrs that their own processes in place to substantiate or not substantiate a finding. Can you just

take me through the avenue of someone whose complaint is not substantiated? What other avenues are currently available to them?

>> It's completely dependent on what the actual concern and complaint is. So depending upon the level of complaint -- for instance, there are instances where someone files a complaint and they complain of retaliation.

[6:02:03 PM]

If that employee is terminated, for instance, or suspended or put on probation thaws of that terminated, that person has the ability to take that concern to the municipal civil services. So there are some instances where depending on the issue they're complaining about there may be additional remedies. If the remedies don't include those that go before the municipal civil service, they have the ability under the current rules to take the concern or the appeal of the investigation to the city manager at this point for investigations of discrimination, retaliation or harassment.

>> Troxclair: I guess what are the rules of the eeoc or the twc? What are their roles?

>> I would probably yield to the law department to give a better explanation of how the eeoc and the Texas workforce components work.

>> Thank you. It's just a different avenue people can go through. They can file something with the eeoc or the Texas workforce commission if they're having those three things, discrimination or retaliation. So that's one more avenue as we talked about earlier, there's an ombudsman for the city as well.

>> Troxclair: So do people do that simultaneously when they file a complaint with hr? Or is that once a finding has been made internally through hr that is then the next step that they could escalate the complaint if it's not going to the municipal civil service commission?

>> They could do it either way. They could go to the eeoc.

>> Troxclair: Okay. And so the point you were trying to make in your presentation, I guess, with the percentages of findings, was that human resources -- human resources cited discrimination or harassment policy violations in 9.9% of the allegations where the eeoc, which also I guess could be a concurrent path cite add lower rate of 3.8%. So you are saying that human resources does a -- substantiates more complaints than are tasked with kind of looking at the same exact kind of complaint.

[6:04:09 PM]

Nix that specific example yes, we thought it would be fair to compare our response to the eeoc responses.

>> Troxclair: Okay. Thanks for helping me understand.

>> Mayor Adler: Ms. Pool?

>> Pool: Hi, Ms. Hays, thanks for making the presentation. I have two quick questions. One of the previous speakers talked about how she was not given a copy of an investigation report about her complaint that was investigated, but other people in the department received a copy. Can you explain why that would be? Is that typical?

>> So in the complaint process once an investigation has been completed, similar to what you see in sworn, the department director has the opportunity to review it before we send it out. I think the concern that you hear from many of those who testified is the believe and concern that there is some ability to manipulate the results of those findings when the department director receives it. Our current process allows the department directors notice, the same way we would the chiefs an opportunity to understand we have completed an investigation, here are the results of that investigation as noticed before that final investigation is completed.

>> Pool: So you're saying it's a timing issue? And then in fact the investigation report is given to the employee?

>> No. They were correct. In order for the employee to receive a copy of it, they would have to put in a public information request.

>> Pool: And why would that be when the investigation would be about the employee? As the subject of it.

>> So understand as we complete investigations we also have others that are -- other witnesses that contribute to that information. It makes it a public record relative to all those who participate in the process. So the information found within is not only information directly relative to the complaint itself, but any testimony received from any of those people who actually present information through that process. In some instances we may have peers who come before them and have an opportunity to say that that information may create workplace concerns.

[6:06:16 PM]

So I think my understanding is -- and Dr. Washington is coming up behind me so I think he has something to share -- also is that it's a public record as a result of the finding component and once we've completed the full investigation and therefore they have to go through that process.

>> I would just add that as the complaints are made and there are policy violations found and they affect other people, then it was treated like a personnel matter since it affects other employees and we typically don't discuss the discipline of other employees with people who are not actually affected by it. And so in order to make it available we do it through the public information process. In the instance of trying to segregate personnel records and information from those who are not affected by the discipline.

>> Pool: So is that a policy decision that the city of Austin has made or is that considered a best practice or is there a law that governs that? And at this point I want to talk only specifically about the person who has -- the principal person involved in the investigation, who may have filed the complaint.

>> The best practice is to bring about closure and close out with the complainant and state what was done in the investigation, but not to discuss personnel matters that affect other employees with the complainant. So the best practice is always to bring that closure, but it is not to provide the until investigative report, which is typically confidential in most organizations. We can access it in the public sector because as Ms. Hays indicated, it is subject to open records.

>> Pool: But you would release the report to the requester even if that is the principal person?

>> That is correct.

>> Pool: So I guess my curiosity is around that piece there. Why would you make the complainant this have to take that additional step to get a copy of a file that everyone else within the management structure has had access to when she is the one who the file was created because of a complaint?

[6:08:33 PM]

>> And I may need the city attorney to weigh in, but as a matter of weighing risk to the city in personnel matters we do ask the complainant to request the public information request. We have simplified that. We don't make them wait for it. In many instances I've been at the meeting with Mrs. Guthrie and we've simply turned it over upon their request. But it is not a matter of protocol to provide it.

>> Pool: Do you redact information or something?

>> That's the other component of it if it's protected information in the report it does need to be reviewed and redacted. >>

>> Pool: And would the information in the report eventually be discoverable if the complainant would elevate the complaint to court?

>> Yes, it is.

>> Pool: Andky take this offline and I -- where I'm going with this is I'm not sure that denying the complainant a copy of the file or making her jump through a ooh hoop that is purely administrative is really helpful when you would release it upon the request of an open records.

>> I think it's an administrative piece that we could take a look at and get back with you on.

>> Pool: And the second question, I have another one of the folks who came and spoke at the podium said that her complaint when she went and asked if she could -- she was denied access to the municipal civil service commission. She couldn't file an appeal with that body, if I understood what her comment was. Do you know why -- am I remembering it correctly? And why was she denied? Because I don't think

that's within your ability to say you can't go -- you can't file with the municipal civil service commission. I mean, that's open to all employees, and a member of management couldn't say no, you can't file there.

>> If I might, I don't know the specifics of it, but it would be the appeal was not in one of the things delineated in the charter for the civil service to hear.

[6:10:44 PM]

If it was the reclassification of a job it wouldn't fall within the civil service purview.

>> Pool: Okay. So it sounds like to me the denial was made, but an explanation wasn't sufficient for the person who was denied. So she's frustrated. And that -- so that the communications weren't as free flowing and helpful in that instance as they might have been. If there was a justifiable reason that that avenue wasn't open, I would expect it would be clearly communicated so that the complainant would understand.

>> And I just don't have the particulars of what was communicated, but we do formally notify all complainants who file appeals with the commission whether or not it's within the scope or not within the scope. I believe that is done in writing. I am correct. So they would have gotten not only a verbal, but a written response to a filed complaint.

>> Pool: Thank you.

>> Troxclair: Councilmember Zimmerman?

>> Zimmerman: I'm sorry, maybe you can't answer this. Is there anything -- is there anything that can be shared on that or is that case being appealed? Is there any new information? I was reading from the statesman article what's been written publicly, but I was wondering if there's anything the city can say about the particular case?

>> The case did go to a jury trial and they found that there was not discrimination, but retaliation by the director. That person did not does not work for the city anymore and did not come to the trial.

>> Zimmerman: Is there any more information other than what I can read in the statesman article?

>> I'd be happy to provide you information about the pleadings and whatnot. I would be happy to follow up with you on that.

>> Zimmerman: Is there anything that we can say publicly?

>> I think it was a clear case of two people had very different views about what had happened.

[6:12:49 PM]

And I think that the trial, the jurors found in favor of Ms. Vigil, and that's what I can say at this point.

>> Zimmerman: Okay. So I guess what I'm struggling with, and this is a conversation for our colleagues, this is a really difficult spot to be put in. I think there's a motion on the floor, and in particular for a pretty involved resolution here with a lot of whereas's, there's a lot here. I don't see where I have sufficient information to vote either way on this. I heard some testimony that some of our employees are saying that yes, there are processes in place, but the processes don't work. There are interminable delays or they seem to be very, very dissatisfied with the process. The city staff says well, we have a good process. We've worked hard on it. And I don't know where that leaves me. It leaves me with another abstention vote. I don't know where this is going and I don't know from what basis I could vote for or against the resolution in front of me. So it's a little bit frustrating.

>> Councilmember Garza.

>> Garza: I just wanted to thank the folks who came and spoke about their stories. I know that takes a lot of courage. I also understand that there's two sides to a story, so I appreciate those comments as well. I started my career in the city of Austin in 2001 as a fire cadet and there was a training lieutenant there that made it very clear that he didn't think women should be firefighters. And none of the women in my class was going to speak up. We just wanted to get through that training. Through our training and become Austin firefighters. I'm proud to say now that person no longer works for the Austin fire department because of other things that he said along his career.

[6:14:49 PM]

This issue was I think borne out of or bringing this forward was borne out of the training that was held about how to deal with the new female majority council and how we have -- we had to be addressed differently or how things needed to be framed differently for us because we were women. And so I'm not saying that -- this is a cultural -- with women issues specifically, these are cultural things that aren't new for many women. We've been facing these kind of circumstances and situations throughout our careers. And, I mean, even today there was -- I'm not saying it's specific to this organization. It's a cultural thing that I'm sure many organizations deal with and many women have to deal with in separate organizations. Even today a speaker during citizens communication thought it was okay to comment ironically on mayor pro tem's appearance. And that's not okay. And so I appreciate you bringing this forward and making this a part of a conversation that needs to continue, and I appreciate hearing from human resources that they're willing to work and continue this dialogue to improve on processes. We can always improve and so yes, thank you, mayor pro tem, for your leadership on this.

>> Councilmember kitchen?

>> Kitchen: I have a question. And again, thank you for your leadership. I'm very proud to be a co-sponsor on this. I've been working on equity for women for many years. I have a question on the scope of

this, and perhaps mayor pro tem can help me with this. Will this address pay equity issues? Or is that something we'll need to address separately?

>> Tovo: Well, I would say as it's conceived currently it does not specifically call out pay equity.

[6:16:52 PM]

I know that certainly was something -- the human rights commission as they looked at it also looked at job categories and salary ranges and that was an issue that was within their scope. My guess is that as they're -- if we have a third-party appeals process that certainly pay equity will be a part of some of those cases.

>> Kitchen: Okay.

>> Tovo: It may need additional work.

>> Kitchen: We can talk further on that. I think our pay equity policy is something that our 'stache has certainly begun working on, but it's an area that I would like to discuss further.

>> Mayor, if we may, in preparation for a disparity report for 2016, the human resources department has been evaluating external consulting groups similar to what was taking place in snbr to identify a consultant that could come in and provide that to create a little bit more transparency to the process. So we are trying to identify and find funds within our current existing budget to do that in order to provide you a disparity report for 2016 done by an external entity.

>> Kitchen: Thank you.

>> Mayor Adler: Thank you. Further discussion. Mayor pro tem?

>> Tovo: I wanted to also thank all of those who have participated in this conversation. Those of you who called me and had concerns about the resolution and wanted to see some changes as well as those of you who shared your experiences and your stories through your union representatives, through your colleagues, through emails and those of you who came down here today to speak with us directly. As we know, as we all know, the city of Austin is committed to being a workplace that doesn't tolerate discrimination, retaliation and harassment. That is our city policy. We've just reviewed that with our hr staff. That is the city manager's commitment. I know it's our commitment as a council as well.

[6:18:54 PM]

So thank you to our human resources staff for their presentation reiterating their commitment to creating a fair and equitable process and to ensuring that our workplace is a just one. And I appreciate the difficult

and hard work that all of you do. As many of you know this resolution did begin with the human rights commission's hard work on this issue and it's been going on really since last may. The former human rights commission took up this issue and did a good deal of research. The newly configured human rights commission this fall continued that work. They heard from staff. They did information requests, they've been reviewing and really providing some great leadership on this issue. And so I really appreciate all of their work on this issue and the recommendations that they've made to us as councilmembers. And I should just pause and say I believe there may be some who were concerned that we heard a staff presentation after the public had an opportunity to comment, and I apologize. Had I understood there was a staff presentation I would have invited the public to comment afterward. As I look at the situation we should always be looking for ways to improve our processes in the city. When we hear concerns absolutely we need to understand there are two sides to every story and that we are not evaluating all of the details, but I believe we have an obligation as councilmembers to listen to those stories, to listen to those experiences and concerns and to evaluate whether our existing processes can be improved. And I really appreciate our hr staff for saying there is always room for improvement and that you're willing to collaborate on these issues, and are in several points of our resolution. I think it's critical that our employees at the city feel safe in putting in claims and complaints and that it's just, fair and equitable. As we've talked about several times this resolution isn't the end of a discussion. It's really the beginning of the discussion. It sets in course four different actions that I just want to summarize quickly.

[6:20:55 PM]

It moves forward several of the human rights commission specific recommendations, including providing guidance for employees seeking accommodation of physical and mental disabilities. It will launch an external audit looking at the investigations that have occurred over the last five years, looking at both the processes that were used to evaluate the claims and also to looking at the outcomes, and to -- looking too at best practices in other municipalities and in other entities. It directs the city manager to recommend a this third-party appeals process that we might consider for employees who have gone through the grievance process and it directs the municipal civil service commission to consider a possible expansion of its role. As you've heard, there are concerns from our -- about whether or not the charter provides that opportunity. I believe that we'll have more conversation around that, but we would, I believe, benefit from hearing the municipal civil service commission's opinions about what they would regard as a potential role and array of responsibilities regarding claims of discrimination, retaliation and harassment. And so I really just want to conclude my thanking, again, everyone who was involved in it. There are several community members who have been involved helping draft and provide feedback on iterations of this resolution for several months now. And so you all know who you are and I appreciate your work. Again, thanks to all of the parties who have participated in this in what is an ongoing and important conversation.

>> Mayor Adler: Okay. Thank you. Any further discussion on this item? It's been moved and seconded. Those in favor, please raise your hand.

>> Troxclair: Oh, I'm sorry. I thought you were going to talk. If you're not, I just -- I wanted to ask if it's in order to separate the question. I would like the opportunity to vote on the first two be it resolved clauses and then on the last three separately.

[6:22:58 PM]

>> Mayor Adler: We can do that.

>> Troxclair: Okay. And I'll just quickly explain why. I do -- I do sit with mayor pro tem tovo and many other councilmembers, after we heard about that training and have been concerned about this issue and want to make sure that the issues are addressed. The first two -- the first one allows us to review the current anti-discrimination policies and protocols, make periodical updates, make guidance and provide an anonymous complaint mechanism. And the second be it further resolved would commission an external audit to review the investigations of alleged discrimination, harassment and retaliation. And provide a report on best practices and provide us with some data and some additional information of what -- to really be able to quantify the issue and understand what the best way to move forward is. I would like to know -- of course, any discrimination or harassment or retaliation is never appropriate and should never be tolerated. And I'm concerned about a lot of the stories that we heard here today, but I don't know how -- but I also understand that this is a gray area and that there can be different interpretations of this same situation. And I would be curious to know data points like how we stack up to other cities that are similar in size as far as the number of complaints and the number that are substantiated. Whether there are best practices that we have not adopted in this city, et cetera, et cetera. Before I'm ready to make the commitment that there needs to be an additional appeals process in addition to the municipal civil service commission, the eeoc and the workforce commission. So I just think that adopting this altogether would kind of put the cart before the horse and I appreciate you -- your willingness to allow me to vote on them separately so that I can express my support.

[6:25:10 PM]

>> Mayor Adler: Okay. The manager also wants to speak as well.

>> Tovo: I think the last time we separated the question we ended up it therefore be it resolved without the rest of the resolution. So I would just ask that we vote on the first part of the resolution and then vote separately on the therefore be it resolved clauses that councilmember troxclair would like to vote differently on so that we end up with a resolution moving forward that has the context.

>> Mayor Adler: I think we could probably vote for the whereas clauses with the first two be it resolved?

>> Tovo: That would be my suggestion, let's not separate those out.

>> Mayor Adler: We'll do that and yes, we did that before. It was a mistake. Manager?

>> Ott: Thank you, mayor. I just wanted to pay my respects to mayor pro tem and the sponsors of this resolution for bringing this matter forward. These issues are important issues, certainly, they are relevant to our entire enterprise and our entire workforce. So I would characterize these issues as requiring some pretty crucial conversations. I also want to acknowledge all of the employees that are here today that took the time to come and express themselves, their concern across a range of issues that we heard about today. And I want you to know that I heard you, and that the management staff heard you. And we take your concerns seriously. And so we look forward to engaging in the crucial conversations we're going to have over the weeks and months ahead. And I want to also acknowledge my human resources professionals. You heard Joy Hayes and Mark Washington and human resource professionals that we have throughout the organization in the various departments, as Ms. Hayes indicated, they work very hard every day dealing with some very difficult and complex issues, all intending to provide a very positive and constructive work environment for our employees.

[6:27:17 PM]

We want an environment that encourages you to be at your best and pursue your greatest potential. That is always our mission, and it's important to have these crucial conversations across this range of issues over the weeks and months ahead. So we look forward to the dialogue.

>> Mayor Adler: Okay. I'm going to go ahead and break this into the whereas clauses, and then the first two resolved, then we'll vote the last resolved. I'm going to -- vote for all of them. As an attorney, I began my career doing civil rights law, practicing in front of the Austin human rights commission, on employment discrimination on behalf of employees, both administratively and also in state and federal court. I'm anxious to see the review that comes back from this. And I read those -- all five of the resolved clauses giving the council options and choices to make that we can consider in the future, together with the associated policy decisions with those. No objection, we'll go to a vote, first on the whereas clauses plus the first two resolved clauses. Those in favor, please raise your hand. Those opposed? It's all in favor, Ms. Gallo off the dais. Now the remaining three be it resolved clauses.

>> Houston: On the last be it further resolved question, it seems as though we're giving more tasks to the municipal service commission, and they've already asked for pay -- I mean, to be paid. And so I'm wondering, is that the right place to put that, or just leave it to -- because if we expand their positions, they're already saying they're overworked, and they don't have enough time to do the things that they have.

[6:29:28 PM]

So I'm just wondering, is that the best place to have that, or could we just say that the city council -- that the city manager will look at potential expansion of the role as it relates to these cases, rather than directs the municipal civil service commission to consider possible expansion of their roles? Because they're already saying they've got so much on their plate that they're overworked. I'm not sure that if we add some additional things to them, that we might need to have two of just asking.

>> Mayor Adler: Mayor pro tem.

>> Tovo: I appreciate the question, councilmember Houston. They certainly may respond that they believe they are fully committed in ter of their caseload they have, but I did exchange -- I haven't talked in-depth with any of them, but I did receive some strong interest from the chair in considering this question. And I believe it's an appropriate one to ask the municipal civil service commission to consider whether they would be an appropriate body, and if so, what would be their appropriate role. They can respond as they will. I value their expertise. They handle these issues in the context of those other five cases. And so I would say there's no harm, certainly, in asking them to consider this question, and there may be real value in the kind of information they provide. And in fact, they may have some ideas that come back to us that inform the city manager's third-party appeals recommendations, and in fact, that's one reason why I've asked that their recommendation be taken into account, as the city manager provides his recommendations to us. So I would strongly encourage my colleagues to continue to include that last be it, therefore, resolved.

>> Houston: We've had conversations before about the commission, and how late -- how long they are, and how overworked they are.

[6:31:33 PM]

And, again, the issue of being paid for the service. And so if they expand their roles too much, then maybe we'd think-- maybe that'll come up with a third party that we have a hearings officer, if none of hire a hearing examiner to manage that particular case or something. So hopefully it'll come out right.

>> Mayor Adler: All right. Then we'll go ahead and take a vote, then, on the last three. Yes --

>> Thank you, I wanted to add there are some legal parameters involved with the municipal civil service system. So this is an opportunity for people to look at this. It's fact-gathering. We'll have to talk about the particular restrictions found in the charter.

>> Mayor Adler: Understood. Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I'm going to be voting against these last three. I appreciate councilmember troxclair breaking those out. I agree with her logic and rationale. I'm going to be voting against these three items here. I presume this is going to pass. We're not done with this. This is going to come back. This time, I'm going to be voting against.

>> Mayor Adler: Okay. Any further discussion? Those in favor of the last three be it resolved clauses, please raise your hand. Those opposed? Those abstaining? Zimmerman no, troxclair abstaining, Gallo off the dais, the others voting aye, it passes. Thank you, and thank you everyone who came and testified.

[Applause]

>> Mayor Adler: Let's go to item number 15.

>> Mayor Adler: It is 6:30 right now. We have three things left. Do we want to take a break, council, and come back?

>> Casar: Two of them are related and don't have that many speakers.

[6:33:35 PM]

I'd be fine with knocking it out, but I leave it up to y'all.

>> Mayor Adler: Which two were you thinking of?

>> Casar: The two living wage items are related, and many of the speakers overlap.

>> Mayor Adler: Do we want to try to handle the two living wage items?

>> Kitchen: I suggest we do that, and then we'll take a break.

>> Mayor Adler: Okay. So we're going to call up, then, the two items which I think are --

>> Casar: 15 and 20.

>> Mayor Adler: 15 and 20. You want to make a motion on those, Mr. Casar?

>> Casar: I believe we'll have to vote on them separately, one is a resolution, one is an ordinance. But I'm happy to move to pass them both. I'll move to pass -- I'll move on 15 first.

>> Mayor Adler: Okay. So, 15 has been moved. Is there a second to item number 15? Ms. Pool seconds that item. We have folks that have signed up to speak on this item number 15. We have, actually, 60 people signed up to speak on this. Signed up on this. Everyone signed up on this is standing in favor of it. There's a more limited number of folks that have asked to speak. And I'm now going to give them an opportunity to do that. Don't feel like you have to use up all the time that you have given to you. The first speaker would be David king. The second speaker would be Emily Tim.

>> Mayor Adler: Is Emily Tim here?

[Off mic]

>> Mayor Adler: Okay. Is Bridgette hall here? Is Bridgette hall here? Ms. Tim, you have three minutes. You have six minutes. Thank you. Gotcha. You have six minutes.

[6:35:39 PM]

>> Great, thank you. Good evening, mayor, and council. Thank you for taking up our items. We're eager to move these forward. My name is Emily Tim. I'm the director of research and policy at workers defense project. I've also served on the living wage stakeholder group that met over the past year, studied and developed the issue of Austin's living wage program, and made recommendations to council. So over the past year we've seen Austin city council take tremendous strides to update and implement the living wage standard, raising the wage to \$13.03 and extending health benefits to part-time employees. We appreciate the leadership the council has shown. I want to recognize that city staff has done a lot of work working with the stakeholder groups and the individual organizations who are interested, particularly from the procurement department and the public works department. So, we recognize that this has been a long process. And we see that the culmination of this -- these efforts of the stakeholder group really culminate in the passage of these two items, item 15 and item 20. And I'll speak primarily to item 15 right now. And so this item will extend the living wage to low-wage construction workers on city of Austin sites. Even though there's a prevailing wage standard on these sites, there are several classes of workers who earn below the city's living wage rate of \$13.03. We believe that applying the living wage to the city of Austin construction sites is just putting its money where its mouth is. If the city requires the living wage on construction sites that receive tax incentives, which it does, if it requires the living wage for workers -- for its employees, which it does, then it's just logical that this wage rate would also apply to the same standards on city of Austin construction sites for the workers who build or city buildings and pave our roads.

[6:37:48 PM]

I'm aware there's some concerns about this policy, there's a concern about the cost of the policy. And that there would be -- that it would be a prohibitive wage increase. While there may be an initial increase in price, what we've seen and research has shown that the construction market adjusts and absorbs those changes in wages. A recent study put out by the Illinois economic policy institute found that prevailing wages do not actually increase construction costs, that labor comprises just 23% of total construction costs, and that research indicates that when construction wages increase, contractors actually respond by utilizing more cap Tapp capital equipment, and the actual cost of doing business adjusts in other ways. So it doesn't just directly result in increased cost. That would be the same for a living wage standard. Another concern that's been raised pertains to the legal authority of the city to enact a living wage on prevailing wage sites. Our staff attorney has prepared a memo, I think that every member of council has seen it. I have copies of it if you would like to. Ultimately, we find that Austin, as a home rules city, has the authority to apply a living wage rate on its capital improvement projects, and such ordinances are not

prohibited by state law. And especially that chapter 2258 of the state government statute does not prohibit the city from enacting a higher wage rate than the prevailing wage. We have someone here if there's any questions about that legal analysis. We'd be more than happy to have her speak. I believe she's signed up to speak, and is willing to do so if the council wishes. Ultimately, the benefits of applying the living wage to construction sites outweigh these concerns. The men and women who build our city deserve to earn a wage that allows them to live and thrive in our city. It's not possible to do that on less than \$13 an hour.

[6:39:50 PM]

Our values as a city worry that

-- require that we ensure the funds are used for public good, and this means making sure city of Austin site workers don't live in poverty. Finally, the city benefits by knowing that its investment in workers will also result in high-quality performance on construction sites, and that is a responsible use of taxpayer dollars. I urge you to vote in favor of item 15, and to extend the living wage to construction workers. It's the final step to take the work of the living wage task force and the work of the council over the past year, and to ensure that these workers are given a wage that values their work and recognizes their contributions to our community. Thank you very much.

>> Mayor Adler: Thank you very much. The next speaker is Jimmy Hendrix.

[Applause]

>> Mayor Adler: Jimmy Hendrix. And Bob Balan is on deck.

>> Thank you, mayor, and councilmembers, for allowing us to come speak about this issue tonight. My name is Jeremy Hendrix, with the national union of north America, joined by my brothers and sisters from local 753 and a lot of other folks here to support the workers of Austin. This is an important issue, because it's the last piece of the living wage task force that many of us served on last year. We're here not just to represent labor unions, but to represent all the workers who toil to build our city that we love, in that struggle to provide for their families. We represent those people that put themselves in harm's way every day to build this great city. And we stand proudly together to ask for you to pass living wages for construction workers and subcontractors. We're joined by the workers defense project, Austin interfaith, IBW, and other building trades and a lot of community partners asking you to do this. We want to particularly thank councilmember Casar for authoring this, and the coauthors, Tovo, Kitchen, and Garza.

[6:41:54 PM]

Because it's important that we send these living wages to the workers of Austin. They risk their lives every day. It's clear Austin will no longer stand for poverty wages for the hard-working men and women

that strive to build this booming city. Recently, we've seen living wages pass on the pi districts. The values stand for ladies and gentlemen. Livingwages. The time is to do the right thing, vote yes, support the workers of Austin. We thank you for your service and your support of this issue. Thanks.

>> Mayor Adler: Thank you. Scott is up, and then Stephanie carcanian is up.

>> Mayor, councilmembers, I am bob batlan, a leader with Austin interfaith. We have been working on this and related issues for over 20 years. And I've been working on it for a fair number of those, too. Austin interfaith is a nonpartisan multi-issue organization of 43 congregations, public schools, associations, and unions working together to address public issues that affect the well-being of families and neighborhoods in our community. One of these issues that impacts families of all of our institutions is the difficulty for working members to provide for their families. It is especially frustrating when underpaid, hardworking individuals are doing jobs paid for by city of Austin tax dollars. Last fall, city council took significant steps towards improving the lives of families of its employees by not only raising the wage floor to \$13.03, but also applying to temporary and part-time workers. There are loopholes regarding taxpayer-funded contract work, though.

[6:43:55 PM]

While some people doing contract work for the city are covered by the wage floor, construction workers and those employed by subcontractors are left behind. Today's proposal would eliminate these loopholes and make all taxpayer-funded work subject to the city's work floor. An intent of the living wage floor is to allow those who work for the benefit of the city to be able to live here. One could argue -- and I do -- that \$13.03 is not sufficient to achieve that intent. However, for now, it would be a significant step forward to apply the wage floor to these additional taxpayer-funded workers. Austin interfaith also supports efforts to allow those with criminal records to be treated fairly in hiring processes. I know that's later. And to eliminate discrimination in the workplace. And I appreciate what you did earlier. This is a Christian holy week. Today, Jews celebrate porum. Both make it a good time to act on behalf of the marginalized in our midst. Austin interfaith clergy members, including rabbi Alan, pastors Tim of St. John, Tom of the congregational church of Austin, Fred of prince of peace, Chris of first unitarian universalists, Lene of abides love, John of university united, Jim Newman of central presbyterian, and Sam rose of congregation Beth Israel join me in support. Thank you for listening.

[Applause]

>> Mayor Adler: Ma'am, you're up next. And then Cesar is after that.

>> Good evening. My name is Stephanie.

[6:45:57 PM]

I am the director of legal services at workers defense project. I am here, of course, to support item 15. But I also drafted the local memo Emily Tim referenced earlier in her comments to council. I know you have had the chance to discuss this item with city legal, and that many of you on council are attorneys yourselves. I wanted to say I am here to be a resource should you need me as your discussion on this item continues this evening. We're also joined by attorneys from the equal justice center who are also here to serve as a resource for you as well. Thank you so much.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: And then it's Cesar, oalide?

>> [Off mic]

>> Mayor Adler: Is he here?

>> [Off mic]

>> Mayor Adler: Okay, great. That would be fine. That would be fine.

>> [Off mic]

>> Mayor Adler: Alejandro Gutierrez is the next speaker, yes.

>> Good evening, and thank you to the mayor and councils to let me speak in my first language.

[Speaking Spanish]

>> Translator: My name is Alejandro Gutierrez. I'm a member of workers defense project.

>> [Speaking Spanish]

>> Translator: I just want to say that we are here representing the workers of the city.

>> [Speaking Spanish]

>> Translator: In my own experience, I've worked for many years in construction in the city.

[6:48:01 PM]

>> [Speaking Spanish]

>> Translator: And I just want to say that we have worked to construct the buildings, the infrastructure, the highways, the schools, of this city.

>> [Speaking Spanish]

>> Translator: So if we are asking for this small increase, it's because this is essential. This is basic to our needs and to our ability to sustain ourselves in this city.

>> [Speaking Spanish]

>> Translator: Our families, we live from check to check.

>> [Speaking Spanish]

>> Translator: In many cases, we are looking for another job, a part-time job, apart from our other construction work. Every day, the cost of living in the city is increasing.

>> [Speaking Spanish]

>> Translator: And we still have to oblige by our own commitments.

>> [Speaking Spanish]

>> Translator: So, this is why we're asking that you take in mind our own experiences and our own opinions, not only because it's good for the economy of the city, but also for the economy of this state. Thank you so much.

>> Thank you so much.

[Applause]

>> Mayor Adler: Bethany.

[6:50:01 PM]

She's not here? That would be, then, our last speaker. We're back up to the dais on this item number 15. I think it's been moved and seconded. Is there any further discussion? Then we'll take a vote.

>> Mayor.

>> Mayor Adler: Ms. Houston.

>> David king.

>> Mayor Adler: I'm sorry, David. I'm sorry. Thank you.

>> Thank you, mayor. I'll be very brief. I know I was out when you called my name. I'm sorry about that. Thank you so much. I'll be very brief. I just want to go on the record as saying this is an important thing you're doing here. And to put this in context, \$13 an hour living wage -- to the it's important we're doing this. It's not right any family would have to choose between basic needs, working full-time jobs, and having to chose between the basic needs of their family and themselves. They helped build the city we're

enjoying. I would ask for a unanimous vote on this. It's a good step in the right direction. The \$13 is a poverty wage for a family of two adults, one working, with three children. That's -- so, this is important. And I'm not being critical whatsoever of this. This is an important step. But if those -- some are concerned about this is way out there, why are we thinking about this, let's get real about this. This is an important step forward, but it's not going to break the bank. It's going to help our city. And it's going to do right by the people who have built this city that we're living in today, and they can't even afford to live here. So, I think this is important. What I'd ask you to do also, because Texas does not allow cities to set a living wage within the city except for what you're doing today for the government jobs, the city jobs, things like that, I would ask that you put it on the legislative agenda to allow cities to set a minimum wage themselves for every business that is in that city.

[6:52:08 PM]

That would be important. That'll give us -- let us be number 1 in doing right by our citizens. Let us be on that number 1 list. We're on many other number 1 lists. Let's make ourselves number 1 on that list, doing right by our citizens here, and paying a true livable wage to our people here. Thank you.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I wanted to call attention to the ordinance on page 1, part one, findings, number C, revising the wage paid to workers on city public improvement projects will ensure higher quality work. As someone who's probably done more construction work as an employee, hired more construction work, supervised more construction work, this statement is absolutely not true. I've had people work for me that did fantastic-quality work at below market rates. And in other cases, I've had to pay for work way above prevailing rates, and I've gotten terrible quality out of the work. It's just not true. The other thing is, I have to keep objecting to the mythical concept of living wage, because a wage that is livable and survivable for one individual is absolutely inadequate for a different individual. There are as many living wage Numbers as there are people in this city. It's impossible to define living wage. \$13, \$15, some people can't survive on \$25 an hour. It's not livable to them. So, for those reasons, I'm going to be voting against this ordinance. Thank you.

>> Mayor Adler: Ms. Houston.

>> Houston: Thank you, mayor. Although in the this city we have many individuals who make wages that are extremely high, there's so many of the people in this city who build this prosperous city whose wages have remained flat for years, and years, and years.

[6:54:15 PM]

And I will be supporting this because it's time for us to not only pay homage to the folks that make a whole lot of money, but to ensure that the people who help make this the prosperous city that we say it is have an increase in the wages that they receive so that they can continue to feed themselves and their families.

[Applause]

>> Mayor Adler: Ms. Houston, I concur with what you're saying. We have an affordability crisis in this city. We are losing people, and we're losing communities. This ordinance addresses those that are most at risk in a way that we can actually take a meaningful step to help preserve their presence in those communities. I think councilmember Casar and the other councilmembers -- I thank them for their leadership on this issue. It is consistent with and follows along with the action that this council took during the budget session with respect to the work we did moving up to \$13.03 for all of our employees. And I'm proud to have been part of that, and will be proud to vote in favor of this as well. Any further discussion on item 15?

>> Casar: One last word, mayor. This is important to me for several reasons, the first of which is that I've worked on this with the city for a long time, and I thank the city staff that have talked to me about this before I was on council and during that time. It's something that I think is long overdue. It's, second, very important because it affects my constituents really directly. I didn't realize it until the folks testifying sat down, but if you want to see district 4, it was here in front of you during this last piece of testimony. So many of the folks there were district 4 residents. And I hadn't even thought about it until they sat down.

[6:56:17 PM]

So, this is, of course, directly serving our working-class communities, and especially those in north central Austin. But the third reason, I think the reason to vote for this, and the reason it should be law, notwithstanding those other two, that it will be best for our taxpayers and for our community. It's not just about those workers and their families. It's about creating the highest-quality buildings and roads for our city, and for rewarding businesses that do that kind of high-quality work by creating high-quality jobs. In many other cities in this country, and especially in places abroad, construction jobs are not low-wage jobs. They are good, middle-class jobs. And we can create that cycle for ourselves by rewarding those businesses that invest in human capital and in their people. So, thank y'all for your positive vote today.

[Speaking Spanish]

[Applause]

>> Mayor Adler: We'll now take a vote on item 15. Yes.

>> Renteria: I also want to thank my colleague, Greg Casar. He worked really hard on this issue. You know, I hope that this is just a start, because, you know, we're losing our lower and middle class people, and low-income people. They're having to move out of town. You know. And the consequences are that we're not only losing people, we're losing our neighbors, but we're also going to lose our schools. We're under severe pressure now of closing some schools in the inner city. And it would just be a shame if we would have to close a school just because we're not paying our employees enough money to survive and live in this city.

>> Mayor Adler: Okay. Those in favor of item number 15, please raise your hand.

[6:58:20 PM]

>> Casar: All three readings.

>> Mayor Adler: All three readings. Those opposed. Two voting against, troxclair and Zimmerman, Gallo off the dais, the others voting aye. It passes on all three readings.

[Cheering and applause]

>> Mayor Adler: I think that now moves us to item number 20 before we take our dinner break. Item number 20, Mr. Casar. Do you want to make a motion?

>> Casar: So moved.

>> Mayor Adler: Is there a second to that resolution? Mr. Renteria seconds that resolution. We have some folks that want to speak on this matter as well. Again, I want to give people a chance to speak, but don't feel like you have to use all your time if you don't want to. Mr. King, you're our first speaker.

>> [Off mic]

>> Mayor Adler: Okay. Reaffirms his previous comments. Second speaker is Susana Almanza.

>> Good evening, mayor, and city councilmembers, I'm Susana with people organized in defense of Earth and her resources. And our organization represents the poor and the working poor. So we are in support of the ordinance. And we're in support of a living wage. And we're reminded as we begin to celebrate the life of Cesar Chavez this Saturday of how we worked for the workers -- he worked for the workers, working for workers right, working for better salaries, living conditions. And so it's an honor that this is happening, also this week, that we're looking at taking care of our workers, and making sure that they can sustain their families. And I just want to also reiterate what David king said, because one of the things that poder had been working on was trying to get the city to lobby the legislators so that they would have the authority to set their own living wage for all of the residents.

[7:00:33 PM]

So not just those in construction and nonconstruction, but so that -- and not those that are just doing work with the city, but citywide that we can set a a lot of people out of poverty. But also to sustain them so they can get affordable housing. Because we do live in a city with 19% poverty. And so we have got to make those strides to improve all residents of the city of Austin. So we just want to put that on record. Thank you so much.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: Emily Tim. Is annalise here?

>> I'll just be very brief. Just to echo my comments previously, this -- item 20 in particular is really just closing a loophole. The city already requires these living wage standards for contractors. And it just makes sense to require them for subcontractors as well. It will ensure the city of Austin receives high-quality services on all of its procurement contracts. I hope you will move forward and vote with this resolution. It's the right thing to do. It's the right thing for the city. And it is the right thing for working families in Austin. Thank you.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: Mr. Bob batlan. Okay. Colbert sanders. Quiana Canada. Ophelia Medrano. That's our last speaker.

>> [Speaking Spanish]

[7:02:42 PM]

>> Translator: Good afternoon, mayor, and city council. I've been a cook at the Delaware north company at the Austin airport for 15 years, and a member of my union, unite here.

>> [Speaking Spanish]

>> Translator: Me and my coworkers are proud to represent our great city to our guests who are traveling through the airport.

>> [Speaking Spanish]

>> Translator: It's through this job that I can provide for my family, including my 7-year-old adopted daughter.

>> [Speaking Spanish]

>> Translator: I want to thank the city for having our back. Some of my coworkers made \$9.15 an hour. They are going to be getting the biggest raises they've ever received working at the airport. This means we're going to be able to do even more to take care of our families and loved ones.

>> [Speaking Spanish]

>> Translator: I want to thank the city again for making sure the living wage applies to all of us who work so hard to make sure that the guests traveling through our airport feel at home. Thank you.

[Applause]

>> Mayor Adler: We are now back up to the dais. It's been moved and seconded, adoption of item number 20.

[7:04:44 PM]

Is there any discussion? Those in favor of item number 20, please raise your hand. Those opposed? Troxclair and Zimmerman voting no, Gallo off the dais, the others voting aye. This item passes. We're going to take a dinner break now.

[Applause]

>> Mayor Adler: It is 7:05. What time do we want to come back? 7:30, 7:45?

>> Zimmerman: 7:45.

>> Mayor Adler: 7:45?

>> Zimmerman: 7:45.

>> Mayor Adler: 7:45 it is. We'll come back then.

[7:57:57 PM]

>> Mayor Adler: All right. We about ready? This is the last item that we have. We're going to call up item number 19.

>> Zimmerman: Mr. Mayor? Point of inquiry before we get started on the documentation we have here.

>> Mayor Adler: Yes.

>> Zimmerman: I have a yellow page in front of me with an ordinance. Is that the same one on the council message board dated 3.21-16?

>> Casar: No, it's not.

>> Zimmerman: Different. So this yellow one is the one we'll be starting with.

>> Casar: Yes.

>> Zimmerman: Thank you.

>> Mayor Adler: All right. So this is something that has gone to committee. It was first laid out last may. It's been through a stakeholder process. There's been a lot of discussion about it. It's been at committee and been debated. Our regular rules for an item that's been discussed at committee would have us having four people on each side speaking for two minutes each for a total of eight minutes each side. We decided at the work session with this item we would extend that and go to an hour, that there would be 30 minutes on each side. I have been handed a list of 15 people to speak in favor of this. They're each going to speak for two minutes each. I have some people that have signed up to speak against this. Looks to me like there's one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, we'll give two minutes on each side and just call people. Before we get to speakers, though, councilmember Casar is going to lay out what has been handed out in yellow, and he's going to describe that for us. Are there any questions about process before we get in? Ms. Pool.

>> Pool: Just a real quick question. The 30 minutes is for the public to speak to us; right? So should we hold our questions or any kind of commentary until after both sides have finished the 30 minutes?

[8:00:03 PM]

>> Mayor Adler: I'm going to call people and they'll have two minutes each. So when they're done speaking, as we do at any time, if you want to engage them in questions, you can.

>> Pool: Okay. But that won't be subtracted from the amount of time that they have. Okay.

>> Mayor Adler: No. Their buzzer will go off and I'm going to call up to -- you know, between 14, 15 people. They'll have two minutes each to speak, and as we've always done, you can ask questions.

>> Pool: Thank you.

>> Mayor Adler: Ms. Houston.

>> Houston: Mayor, will we be doing alternating positions or all of one thing and all of another?

>> Mayor Adler: I'm going to alternate my positions as is my custom so we hear stuff on both sides.

>> Houston: Thank you. Just want to make sure everybody knew that.

>> Mayor Adler: Okay. I'll be alternating people. Any further discussion before we get into this? Mr. Zimmerman.

>> Zimmerman: Mr. Mayor, one quick thing. I've turned a video clip, I believe it's about 90 seconds, I've given a video clip that's from Ms. Pam Bratton. I believe Pam Bratton was here to speak and it relates to her testimony back in November. But that takes -- we don't have to play it right now. We'll the way the until Ms. Bratton speaks. Just an FYI.

>> Mayor Adler: That will be fine. Mr. Casar.

>> Casar: So this has gone through a pretty extensive process over the course of many months. I think we kicked this off back last may formally as a council. We started off that me resolution citing model ordinance from the national employment law project, and our ordinance, I think, that you have laid out before you is a very balanced one that I think weighs the concerns on many different sides that we've listened to over the course of the months while still holding true to the core mission of the policy. I laid out several of the amendments that you have inside of your packet at the work session, but I'll remind us of those, and then also discuss some new ones that have sort of come up to make sure that we are being consistent with what we said the intent of the policy was.

[8:02:11 PM]

So if you turn to the second page, you'll notice that there's an amendment related to making sure that this conforms with the Americans with disabilities act. That's another non-discrimination law that requires that at the conditional offer of employment, with you hold certain drug tests and medical exams until the conditional offer of employment. And we want to make sure we aren't doubling up on processes or conflicting with the Ada. I know this has been brought up by several parties. So we've clarified that and legal has inserted and written in this amendment. If you look at the next page, this includes an amendment that I laid out on Tuesday. Many folks in the business community asked why the city would establish its own standards, if the eeoc already has standards called the green standards to do assessments of people's criminal history. And I committed that we would include those as the city standards instead of employers having to learn with the eeoc standards as well as the city's, and so those are included in that amendment. We also had suggestions from the Texas association of staffing about how staffing agencies work, so we've included an amendment to make sure that it's clear what a staffing agency is, and that staffing agencies can run a criminal background check once -- with an individualized assessment for their workers before they assign them to a job. We also got concerns from the Texas bankers association because, to clarify, essentially, what we already have in the ordinance. What I committed early on was that we didn't want to put anybody in any legal binds where they were being required bay federal or state law to run a certain kind of background check, but then had a city law that was also related to background chicks. And so we wrote the chapter doesn't apply to those jobs where federal or state or local laws disqualify individuals based on their criminal history. I understand from that association and some others that have reached out to the financial industry that they wanted more clarity, to legal has drafted an amendment that clarifies that.

[8:04:18 PM]

The chapter does not apply to jobs where compliance with legally mandated bond requirements disqualify an individual based on their criminal history. The next set of amendments still relate to the first one. They're just making it all consistent. If you move on to the fourth page, we were -- we have an amendment addressing another concern brought forward by business leaders pretty recently during this process, that they wanted to make sure that they could explain their individualized assessment process, their criminal background checking process early and up front, just to provide some level of transparency without -- without discouraging somebody from applying, but letting them know what their process was. So this is an amendment I laid out at work session, not a new amendment, but I just wanted to draw your attention to it. Further on down that page is the continuation of the staffing agency amendment making it very clear that staffing agencies, once they have decided that somebody -- that they've got somebody for a particular kind of job, that they can run a background check to make sure that they're appropriate for that job. The next page has a clarification that I laid out at work session, and then the last two pages lay out two more amendments that I also have expressed at work session. One addressing the desire from some of the stakeholders to give out warnings to employers as part of the education period. That means that if somebody doesn't know that this law exists and they have a complaint filed against them, even after the first year of this law existing, into the second and third year and beyond, a business can take a training and get just a warning on its first offense. If, on the second offense -- after you've gotten your warning, the fine is the same as some of our other civil ordinances at \$500.

[8:06:19 PM]

And we also have directed the city to create not only an education campaign but also a website with best practices for employers, something else that was brought up was making sure that we were providing especially small businesses that have fewer resources a good place to go and make sure that they know what the federal guidelines are and what the city guidelines are. So these are amendments that we've made sure have been drafted and prepared this week. These are separate and apart from lots of the other pieces of input that shaped the original proposal coming up to committee and through the committee process. And so I would move this version.

>> Mayor Adler: The version that's been handed that has been moved, is there a second to the handout?
Ms. Pool seconds that. So as you can put this into context, Mr. Casar, before the folks come up and testify, there were some things that were included in similar kinds of legislation of cities, San Francisco, for example, there were things that -- there were -- obviously, we have a spectrum of people talking about this that folks wanted to have in it that other cities have appointed for that are not represented in this. Would you go through some of those, please?

>> Casar: Certainly. One of the key decisions made through the committee process was making it so that the smaller employers were not included in the ordinance, and so the committee voted affirmatively to make sure this ordinance applies to businesses with 10 employees and more. The version before us applies to businesses can 50 employees and more. I think that's prudent because this allows us to not

create any additional records retention because there's already rules that make companies that have 15 employees and more retain certain records, and so we actually don't have to require any additional records retention. There are other cities like Seattle that have supplied all private businesses, if you have one employee or more.

[8:08:22 PM]

New York's applies to those employees, four employees or more, so this one gets us to that 15 level. As I stated, it also makes it so we don't have to require additional records retention. I know places like San Francisco require three years' worth of records retention, and this was a concern brought up by chair troxclair during the economic opportunity meeting and I promised her that I would work on that issue throughout this process, and I think this has brought us to a good place. We solved the records retention problem by just making the ordinance a little more permissive as far as employer size. Cities like San Francisco also have appeals periods where if an employer denies someone a job based on an individualized assessment of their criminal background, that can be appealed by the applicant, and the job has to be held open and reconsidered. There's also off-limits provisions in other cities that we decided not to include. That is, under this ordinance, to make it very clear, we are not ever banning anybody from running a criminal background check, just moving it later into the process and making sure it's not done arbitrarily. But in other cities, those laws make it so that employers, at no point, can consider convictions from -- when somebody was a juvenile and also can make it so that they cannot consider any convictions that are older than seven years old. And so throughout this process, we've been working on ways to make sure that this fits in Austin while, while preserving the core mission of the ordinance, which is to move the background check from the beginning of the process to as close to the end of the process as is reasonable for the employers that we felt like could make that change or many of the employers who already do it.

>> Mayor Adler: Okay. I think there's some cities that also have criminal penalties?

>> Casar: Yes, there are several cities that have fines in the thousands. Bought more's includes a criminal penalty and possible days in jail. So this ordinance, I think, is certainly drafted in the spirit that we're not trying to go after the bad guys because we want people to be employed in this city.

[8:10:28 PM]

This is not about finding or punishing any individual business, but about setting a norm and a standard. Fighting against stigma in our community and having a real conversation about the rights of those people in our community who are growing in number that happened to have a criminal record.

>> Mayor Adler: So none of those things, as you outlined, are in the ordinance draft that you've handed out?

>> Casar: That's right.

>> Mayor Adler: Is there someone in your office that can post this draft onto the bulletin board?

>> Casar: Absolutely. We'll do that now.

>> Mayor Adler: If you could do that so members of the community can go to the bulletin board and pull it down so they have access well. Mr. Zimmerman.

>> Zimmerman: Another point of inquiry, in our backup material, the original item 19 on page 6 of 6, draft dated 3/18/2016, calls for the ordinance to take effect in March of 2016, but the one that you just handed out here on page 7 of 7, it says the ordinance takes effect on February blank, 2015.

>> Casar: I understand. I expected this portion would be effective whenever we pass it, which I hope would be today plus 10 days.

>> Zimmerman: Okay. It's the intention for it to be March 2016 or thereabouts. That's just a typo there.

>> Casar: Yeah. I think this was originally published with the staff with a February blank and we haven't gone back --

>> Zimmerman: The incident on ever point is, somebody fixed it, it had been updated, and I was curious why it was still February --

>> Casar: I'm curious too but I bet we can fix it.

>> Mayor Adler: We'll go ahead and make the date the standard date upon passage. Any objection being made to the base draft? Hearing none, that amendment is now incorporated into the base version. Okay, are we ready to go ahead then and hear from the public? All right. We're going to call the public. We're going to have two-minute time limits. The first speaker is Lauren Johnson. The next speaker is Suzanne yowshawiski.

[8:12:32 PM]

>> Good evening. My name is Lauren Johnson. I was arrested in 2003 a week after I found out I was pregnant. I spent my entire pregnancy in jail, and spent the first year of my first born son in prison while my aunt cared for him. I've never hurt more in my entire life than I did the day I left my three day old baby to go back to jail. When I came home, I married his father, we had two more children and we bought a home. My sons, Dillon, Ryan, and Jordan, are now 12, 9, and 7. I spend a lot of time thinking about the lessons that I want for them to learn, the kind of people that I hope for them to grow into, and it's important to me that my children grow up in a community where they know they're able the learn and grow from their mistakes, instead of being relegated to the shadows of stigma and shame. It's important to me that they always have hope to be more than their worst choice. Passing fair chance hiring in Austin is urgent for me and my family, and I ask you to vote yes on it.

>> Mayor Adler: Thank you.

[Applause] Suzanne. Suzanne? And then the speaker -- if we could, as best we could, hold the applause until all the speakers have spoken, we'll get through this I think a little bit more quickly. It's already late. The next speaker is -- we've identified here as Suzanne. The next speaker after that will be Daryl Horton on deck. You can start moving up to the podium, please.

>> Good evening, and thank you for the opportunity to speak tonight. My name is Suzanne, I'm with the Texas credit union association. We represent approximately 500 credit unions in the state of Texas. As cooperative financial organizations, it is the honor of credit unions to serve the Austin community. In doing so it is also our job to protect our member owners. Careful staffing is vital to this mission as our staff has access to personal private information, such as social security Numbers, and direct access to money in accounts.

[8:14:41 PM]

Although the proposed ordinance is well intentioned, we regret that we cannot support it at this time as drafted because it imposes unnecessary costs and burdens on businesses. And still imposes particular risks on financial institutions. Yesterday we submitted a letter signed by the Texas bankers association and the independent bankers association of Texas, explaining what we have under federal law, both for credit unions and banks. And, unfortunately, the way the law sets it up, we are prohibited by federal law in many instances from hiring persons with certain convictions. So waiting until the end of the hiring process to run a criminal background check certainly would just delay the inevitable. We do appreciate your work on the issue regarding the applicability section and your ability to listen to our concerns and work on tweaking that language. So we certainly thank you for that, but we continue to have some concerns with the most recent draft that we just saw a few minutes ago. The concern being that it still leaves that provision as a defense for us, so our concern is, although it may apply to us, we're still left in a position where we have to perhaps respond to a complaint. It may involve us having to get attorneys involved in the process as well, so that's continuing our concern so --

[buzzer sounding]

-- Rather than that, we would still request that you would consider a specific exemption for state and federally chartered financial institutions. I thank you for your time. I'd be happy to take any questions you may have.

>> Mayor Adler: When you first started taking a look at this, before that new section was added, it didn't provide you the protection given the federal laws and the state laws. With the change that's now been made, you're given that protection. You have to agree with me, wouldn't you, that's a pretty good step forward?

>> It is a good step forward, I would agree with that, and it does make the provision better for us.

[8:16:45 PM]

Our concern is still that we're caught in the scenario where, by not being given a specific exemption, we still have to, you know, defend it in response to a complaint, even though it is, again, required action under federal law.

>> Mayor Adler: I understand. Thank you. Ms. Kitchen.

>> Kitchen: Yes, thank you. Okay. I'm not certain that there's a defense required because it's in the section that says applicability, so it does say that it doesn't apply. So to me, I'm not seeing that as requiring a defense. So --

>> Okay. That may be the case. That's part of the issue of clarification we were seeking in that does that then mean the equal opportunity and housing commission then will not process the complaint, or how will it work on that end, was our concern.

>> Kitchen: Okay. Well, I would read this as saying that it doesn't apply to a job for which a federal, state, or local law, or compliance with legally mandated insurance or bond requirement, so it just doesn't apply. So I would expect that you wouldn't have to defend against that.

>> Mayor Adler: I would think so, too. And that would be the intent of that language that's in the bill.

>> That go thank you very much.

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

>> Zimmerman: Before we go on, I think the point of this is, once this ordinance gets passed, somebody could bring an accusation against the credit union and claim that there's a violation, even though there's not, and they would have to defend themselves, hire a lawyer and --

>> Kitchen: Not necessarily. I mean, I don't see that as being a requirement, I mean, a body that -- that could just say your complaint is not valid because this section doesn't apply to them.

>> Zimmerman: That would be the correct judgment, but it doesn't mean that's what's going to happen. That's my point. Mistakes can be made and there can be disagreements. That's the point, you know.

>> Mayor Adler: So we're not protecting against someone wrongfully bringing the action. Hopefully someone who brings it wrongfully won't be able to move it forward very far.

[8:18:45 PM]

>> Kitchen: Yeah. I think it's the enforcing bodies.

>> Mayor Adler: Right.

>> And we did suggest some additional language that I don't think made it into this latest version, which would address that additional concern where -- you know, about a complaint made for an entity that was protected under this provision, would then be discarded by the agency.

>> Mayor Adler: I understand. Thank you. The next speaker -- I'm sorry. Ms. Troxclair.

>> Troxclair: So if that's the intent, but maybe not everybody agrees that that's what's written, what is the objection to including the language that they had suggested?

>> Mayor Adler: Mr. Casar?

>> Casar: I might be able to speak to that. I believe that our intent was exactly as you've described it and as the mayor and councilmember kitchen described from the beginning, and I appreciate the need for clarification. We don't want to, I think, though, accept entire employers and entire entities because, obviously, there would be different requirements for landscapers or for people cleaning the building within an employer rather than just the jobs that have those legal requirements. And so, instead, the difference, I think, here is exempting those jobs, as opposed to exempting entire institutions.

>> Mayor Adler: Okay. Thank you. Next speaker --

>> Casar: Thank you for bringing that up.

>> Mayor Adler: -- Daryl Horton. Then after Daryl Horton, the next speaker is going to be Jose Carrillo. You have two minutes, sir.

>> Thank you. Good evening, mayor, and city council. I'm here tonight in favor of the fair chance hiring ordinance, and I wanted to take a moment just to say thank you to councilmember Casar for all the work over the months that he's put into this also with the city staff members, with community leaders, for months of meetings, dialogue, and lots of research in determining how this can affect our community in a positive way. I stand here as someone who has a chance to interact with people on a daily basis, who have criminal records, who have passed that continue to haunt them even as they continue to better themselves with better employment.

[8:20:58 PM]

I think this ordinance is a good step in the right place. It may not be perfect but I think it's a good step in the right direction for us to help this community. I think that this ordinance is a positive response to the cries and appraiser of a hurting group of people, a segment of our families, and even our communities. I think that this ordinance provides hope, it provides encouragement, and I even think that it's a symbol of an investment in the lives of individuals who are often neglected, who are often discouraged, and who are even unheard. And so I'm just here to stand as a community person to say that I'm in favor of this. I hope that we can move it forward, talk about it more, that it will help to enrich the lives of persons in our community. Thank you.

>> Mayor Adler: Thank you, sir. The next speaker that we have is Jose Carrillo, after Jose Carrillo, the speaker is Isa Arizola.

>> I'm Jose Carrillo with the chamber. I'll keep this brief since we've engaged you on he ever the last months on a number of these items. But fair chance hiring practices have the capacity to help individuals with criminal histories get a second chance at access to job opportunities and continue positively -- contribute positively to the community, to the increase in capital. We know if more individuals are able to obtain employment, there are increased opportunities to reduce poverty rates. The goal of opportunity Austin. And there are clearly employers who are choosing fair chance hiring in Austin without mandates from the city. However, the chamber's position that we articulated over the last few weeks was based on the ordinance that was drafted and released on February 23rd, and that time, our board asked for an extension till may to be able to evaluate the ordinance and provide some guidance and suggestions, since we're now here on March 24th, you know, we cannot support the ordinance as was presented. Obviously, we've had a lot of amendments this week and we haven't had that opportunity to share that with our board and get that -- get that reaction.

[8:23:03 PM]

So if you find after today's discussion that you need to delay it, we would appreciate that so our folks could look at all these amendments that have been contributed to the conversation today. If not, we do ask you to sincerely look at -- and this is mentioned with the previous speaker, maybe brought up, to look at bringing the background check process a little bit earlier in the process to after the first live interview, as is done in Seattle and in San Francisco. Thank you.

>> Mayor Adler: Thank you, sir. Next speaker is Isa Arizola. And speaker on deck is Mike Burnett.

>> Thank you, mayor and city council. As a recently single parent of two I've had to deal with the stress of not only being able no, not find housing but also not being able to find a job. Right now I currently work at goodwill, central Texas, outreach and recruiting coordinator but the only reason I got that job is because of the people I knew. Unfortunately, people in my position that have previous convictions that don't usually have that kind of stability and cushion to fall back on. Although I am formerly incarcerated, my offense was over eight years ago, and now my children, which are 12 and 6, are still suffering from the consequences of my actions. If you don't support fair chance, you're not only denying us employment and a better equal opportunity of jobs, but you're also denying our children a fair chance at a better future. True.

>> Mayor Adler: True.

[Applause] Thank you.

>> Mayor Adler: Thank you. The next speaker is Mike burr incorrectly then Brian Mcgovern.

>> I love the word discrimination. It's used to frequently to divide things and break things up and try to subdivide groups in accordance with whatever the current political agenda happens to be. I prefer more

American term, that being equal protection, giving people all across the board the right to be able to have the opportunities, bring families up in a decent environment, and give them the same job opportunities that everyone else has.

[8:25:18 PM]

I don't know about you, but I find that having a knife pulled on me and having my wallet taken, having a gun pulled on me and having my wallet taken, having family members murdered during property crimes, kind of sits with you a little differently than most people. I understand the argument for this ordinance, and again, I'm more an advocate of equal protection. If you're going to run carve-outs in one group, backing and so on and so forth, why not another? Are we going to strictly, you know, insist on an arbitrary and capricious group of carve-outs and then take the rest and throw them in a pile and just throw them to the wolves? I just absolutely cannot support this ordinance, not ever, in any circumstance, and I thank you for your time this afternoon.

>> Mayor Adler: Thank you. The next speaker is Brian Mcgovern and Pam Bratton is on deck.

>> Hi. My name is Brian Mcgovern. I'm here to speak in favor of the ordinance. First, I live in district 1 so I want to take a moment to thank councilmember Houston for the support you've shown so far in this process. But what I'd like to do is I'd like to read an excerpt for you from a letter, from a chamber, saying -- regarding civil rights provision. The problem involved so many considerations that any bill comprehensive enough to cover them all would, in all probability, do more harm than good. The better approach to the problem is a combination of volunteer efforts and increased education to ensure better understanding of the need. Now, that sentiment may be one that sounds familiar to you. It's certainly one that I've heard at points in this process. But this is actually a letter from the U.S. Chamber of commerce dated 1963 with regard to provisions of a bill that ultimately became title VII of the civil rights act.

[8:27:25 PM]

So it sounds familiar because the game plan for getting civil rights legislation hasn't changed that much in the last 50 years. Now, I know many of y'all are probably feeling pressure to change the ordinance to make it less effective. And when you're considering that pressure, I'd like you -- I'd hope you would take a moment to ask yourself, in running for this office, did I put in this many hours, and this much money, and this much energy, and everything else that I had to do, to be where I am today, just so that when I'm presented with a civil rights ordinance, I'm going to back off because of the same tired arguments that have been used for the last 50 years against civil rights legislation? Or am I going to use my position to do something that I'd be proud to read about in history books? That's all.

>> Mayor Adler: Thank you.

[Applause] After Pam Bratton, the next speaker will be Candace vayaho.

>> Thank you. My firm opposes this ordinance, and I will be brief because I have sent you a number of documents and had conversations with councilman Casar about this issue. We oppose this ordinance because it interferes with our business model. It allows -- I know that you define temporary staffing, and since I have not seen the language that you proposed, I cannot address that, so I do have to oppose it because I think until we see it, we can't. But it does not allow an exception for temporary staffing. And our business model requires that we recruit, interview, test, screen candidates, and put them in a pool to be assigned to various businesses. So for us, the background checks sooner than we have an assignment to send them to is crucial to our business model.

[8:29:29 PM]

It would mandate, as the last ordinance that I saw, that we wait in will we have an offer of an assignment for them, the way that it reads. So that will make them not successful as well. We do the background, the criminal history check, so that we don't put folks in a position to fail. We also don't want to put our clients at risk. We have a variety of clients, each with unique criminal history requirements like the credit union, like someone that might have an on-site day care. So these things are important for us to know sooner larger than later. When a client calls, it's usually, we need help right now, send a temp over. There's a vacancy and we need someone today to keep our business going. If we wait 24 to 48 hours on a criminal background check, the business is now behind and lost money. The temporary employee is sitting without work. And so the whole process, the whole business model fails.

[Buzzer sounding]

>> Mayor Adler: True.

>> Zimmerman: Mr. Mayor, do I raise a point of privilege? This is the video I was talking about. On the November 9th eoc meeting, if we could play that quickly, if you hang on a second, I want to ask you a quick question after we watch this. I believe it's about 60 seconds or so.

[Video playing.]

>> We're certainly -- I represent my company, which is a staffing firm, and we employ hundreds of people. I am also here on behalf of the Austin chapter of the society for human resource management and the Texas association of staffing in November, both of those organizations. And we just have a few concerns about some of the line items there. Trust me, we absolutely are not opposed to [inaudible] And we do support fair chance hiring. My firm has a number of folks that we employ for job assignments who have criminal history, so we are not opposing that.

[8:31:40 PM]

There are some of the details. I apologize for being late to the party, so to speak, as stakeholders, but the human resources community [inaudible] Yet as you know [inaudible]

>> I would hope that's a committee putting together that compliance, we have great H.R. Staff here. It sounds like your connected with folks who could help smooth out that process.

[Inaudible] We want to get the process started, thus putting together that compliance piece, but as a previous speaker mentioned, there's got to be some sort of [inaudible] I would just ask if you can get in touch with my staff [inaudible]

>> I'm happy to have those conversations thank you.

>> Zimmerman: So, Ms. Bratton, I know you volunteered your expertise. Did you -- you reached out, I believe, to the city and to councilmember --

>> I did. I called mark Washington's office and was told someone else handles that. I made several phone calls. No one reached out to ask me for a one-on-one sit-down in this subject matter until the chamber arranged a meeting with councilman Casar.

>> Zimmerman: All right. I appreciate that. Thank you.

>> Anything else? Okay.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: So am I understanding that the way that you operate is, you background check all of your employees so that you're ready to put them in a position when that position comes to you?

>> Absolutely.

>> Kitchen: So you need to be able to -- so the employee's employ is of you. Correct?

>> Correct. We pay that employee. We issue the w-2s.

[8:33:42 PM]

They're covered by on you workers' comp, our unemployment insurance, they are my employees and they sit in a pool waiting for you to say, 4:00 oh, someone

-- today uh-oh, someone didn't come up, send them over.

>> Kitchen: So you need clarification that this applies to the process of you deploying them in your pool, not the client that you're sending it to.

>> Absolutely. And that's why we asked earlier in the process when we interview them and test them. They usually come into our office only one time.

>> Mayor Adler: Mr. Casar.

>> Casar: Could we call up our city legal staff to address this? Because I think my hope is that we've worked this out. So if the temporary staffing agency is hiring somebody on and they're -- as Ms. Bratton mentioned -- pulling out their payroll taxes and they are the employer, then can you talk to us about when they could -- what conditional offer means? Maybe not even in particular to staffing agencies, but once Ms. Bratton's company brings somebody on as an employee, could they one the background check a conditional offer for coming into am Ms. Bratton's company?

>> I think the changes on page 4 of 7 make that clear. , Sort of going through the definition of conditional offer employer. Notwithstanding any part of the chapter, you just have to -- at staffing agency, you can ask for criminal history information, make an individual assessment when you identify your job for which they will be employed. So if you're -- so that's not --

>> Casar: But hold on. There's that change, but then prior -- before the change, you had also mentioned that if they were actually being employed by the staffing agency, they could run a background check at the conditional offer of employment to work for the staffing agency as well.

>> Yes. If you were the employer, you would be able to run it when you identify that that is an individual who has passed through all the other screening and you make a conditional offer, then you can run the criminal --

[8:35:51 PM]

>> So let me be clear. When we put them in our pool, we might not have an assignment for them. So this part is not acceptable.

>> Casar: And so it would be better without the change and better to just have it be at the conditional offer stage. Just better for when you bring them --

>> I think we need to sit down and work on this language.

>> I think the goal is to require the employer to conduct the individualized assessment and without having the background of how that is actually performed, I don't know if you place people in a pool, dependent on job skills, or where people may be placed -- what jobs they may qualify for. If you can conduct those individualized assessments based on the potential jobs that they can conduct --

>> So what might be -- I'll give you an example of something that's current. Someone applying for a customer service job, seems no-brainer, you know. But we have two different customer service assignments. One is in a government agency that these folks have access to everyone's personal data. So criminal history would not be acceptable in certain purviews there. Another might be a customer service

job in somewhere that they don't have access to all that private information. So you can't just say all customer service reps are going to have this criminal history standard. That's our dilemma. People come in and don't apply for a specific assignment, either. They just say, "I want a job." And we want to help them with that. So we give them different kinds of evaluations and try and figure out what's the best way to put that person to work.

>> And I would say that as -- if you were hiring them and you are offering them work for pay, you can conduct that individualized assessment once you determine what jobs that they are eligible for, and that may mean you have to conduct several assessments on that person based on the criminal history. But you can do that before you assign them out to a particular client.

>> Mayor Adler: Ms. Kitchen, do you have -- Mr. Casar, do you have a proposal within the this issue?

[8:37:52 PM]

>> Casar: Well, Mr. Mayor, if I could.

>> Mayor Adler: Hang on one second.

>> Kitchen: I have proposed language that I think will address the concern. So that G on the end of G, add

the clause: Or when they -- or when they are being added to the staffing pool. I think that -- is that the term that you use, "Staffing pool," for your employees?

>> Correct. It would be that you would delete, has identified a job to which the individual will be employed.

>> Kitchen: Okay.

>> That sentence. See, that's the dilemma. You can't wait till you have an assignment for them.

>> Kitchen: No, but if you -- the clause that I'm suggesting works because it says, or when they are being added to the staffing pool. So that applies to your situation, and it means when you are adding them to your staffing pool, that's when you can do your background check. You don't have to wait until you have a job identified for them.

>> Mayor Adler: I think either of those two situations, different businesses operate different ways.

>> It's an "Or."

>> Mayor Adler: It's an "Or."

>> Casar: Mr. Mayor, this is great. This conversation should have happened in November, you know, instead of trying to craft, you know, a very important and complex ordinance in front of the dais, she

offered to have this conversation back in November. It didn't happen, for whatever reason, so this is why I'm going to make a motion to move until may, to delay this so we can work these -- some of these complicated things out.

>> Mayor Adler: In the meantime before you make that motion there's been a suggestion from Ms. Kitchen. Is there any objection to that being added to the base deal? Seeing none, that's now added to the base.

>> Casar: Mayor, before we move to the next speaker I'd like to call our human resources staff up to this podium, please.

>> Mayor Adler: Okay. Thank you. Council, thank you.

>> Casar: Mr. Washington, it's my understanding that y'all have reached out to lots of folks in the business community about this.

>> That's correct. I'm going to ask the staff to come up. I do recall Ms. Bratton's testimony at the economic opportunity committee, and my staff was telling me that they did indeed follow up with her, and that she was part of a webinar, as I recall.

[8:39:59 PM]

So, likewise, I would have appreciated also having known if there were concerns from the council about staff not following up prior to tonight, that would have been helpful as well.

>> So when we went back out, the economic committee asked us to go back out to business stakeholders. During that time period, we attempted to expand the group that we reached out to, and as a human resource community, we tried to reach out to those human resources professional organizations to invite them along. To my recollection, and I want to be clear that I'm fair, Ms. Bratton did participate in the conference call that we took place, the phone call that we took place for businesses, as an alternative for those who could not attend. If you'll recall, we only had a three-week period between the two committee meetings to try to get the stakeholders meetings to take place, so we tried to create some diversity in how businesses could participate. One of which was the call. We did get a call from Casar's office asking us to contact her directly, and so Robert crane, our manager from employment, has records that he spoke to her on December 8th and she provided information and we tried to make sure we captured that information in consideration for the illusion. I can't speak to any specific request that she made relative to one-on-one communication, but I can share that we did take her information and it was included in the consideration for the draft resolution.

>> Mayor Adler: Okay. Thank you very much. We'll go to the next speaker.

>> Troxclair: Mayor, before we move on, can I just get confirmation -- so did the language we just added, does that fully address your concerns or --

>> I am not sure, and I would certainly want to run this past our association's legal counsel, to do that I think that's fair. Because I think our legal minds are pretty good. And that would be warranted because I just think that's the right thing to do. So I would ask you not to vote this out tonight.

>> Troxclair: Okay. Thanks.

[8:42:01 PM]

>> Mayor Adler: Next speaker is Candace viyaho, and Kathie Williams is on deck at the other podium. Please proceed.

>> Good evening, council. I am the director of youth rise Texas. We're a youth leadership organization working with teens whose parents have been incarcerated or deported. As the daughter of a formerly incarcerated woman, I know personally and see in my work every day that parental incarceration has lifelong impacts that's associated with decreased physical and mental health over the course of a young person's lifetime, problems in school, decreased earnings long-term, and this doesn't even begin to address the trauma and lack of having your caregiver and your ally in your home. We represent teens destiny who I'd like to say isn't here because it's a school night but I'd like her to tell you why she's not here. She's made a statement for you.

[Video playing.] My mom cannot find a steady job so she can support me.

[Inaudible] As African American, I'm an example [inaudible]. My mom cannot find work which makes it hard [inaudible].

[8:44:03 PM]

Give my mom a second chance by reducing discrimination, based on choices she made.

[Inaudible] A chance to do the right thing to help families like ours who struggle every day.

[Inaudible] To do the right thing.

>> So this policy isn't a silver bullet but it's a step in the right direction, and right now you have a chance to make the right choice to alleviate some of the impacts of parental incarceration for destiny and the thousands of kids like her in Austin and thousands more every year. Tonight I urge you to think about these 15-some airlines full of children in our city, every year, when you're making this decision. Thank you.

>> Mayor Adler: Thank you. The next speaker is Kathie Williams.

[Applause]

>> Mayor Adler: And after Kathie Williams the speaker after that will be Susan parsons.

>> Good evening. Thank you for the opportunity to speak to you tonight. The Texas association of staffing will have to oppose this ordinance at this time. The amendments that have been offered, we haven't seen those, and we cannot make a determination without some legal guidance or having them to review it to see where it opens up anything. As Ms. Bratton already told you, staffing companies have a different model that's a little bit different, so it's creating that pool of candidates that we can then set out, but if we don't have that background check earlier in this -- in this time frame, and not until there is that job that is available that we want to put them into, that delay can also harm the employee because that job may not be there two days later after a background check is made. And if that happens, it may be hurting those same people you're attempting to help here.

[8:46:07 PM]

So making those changes and understanding that, you know, it is an immediate need when our customers contact us. And any delay, and if we're not ready to put a person into that position who has already had the background and gone through the testing and all of the screening, it's going to be impossible or a lost opportunity for employment from everybody. Any questions?

>> Mayor Adler: True.

>> Casar: Mayor?

>> Mayor Adler: Mr. Casar.

>> Casar: Ms. Remains, I did want -- Ms. Williams, I paid to note I received your e-mail which asked us to make employment by either one, an actual job offer with a client, or two, an offer to be included in the assignment pool. And in taking that to our legal staff, I thought the original ordinance actually did those two things, but I think now with the clarifications, it actually -- having the word assignment pool there, I hope it does what new York's does, which is exactly what it is you've written in your e-mail, an actual job offer with the climate or offer to be included in the assignment pool --

>> Again, we would have to look at the liability said of that because I'm not sure just putting a sentence in there like that really covers what you're trying to accomplish. So -- and again, I appreciate the opportunity to speak to you tonight.

>> Mayor Adler: And thank you. For what it's worth, if anyone is looking back at this tape, it is the intent of this ordinance to --

>> But that's not what gets argued in the court all the time. And that's what we have to address from the business point of view.

>> Mayor Adler: I understand. True. Thank you.

>> Thank you.

>> Mayor Adler: The next speaker is Susan parsons and after Susan parsons, the next speaker is Liz hocker.

>> Good evening, mayor and councilmembers. Again, my name is Susan parsons. I am a master student at the university of Texas. I hold degrees from UT and also the university of Kansas in journalism. I recently decided to go back to school to get my master's in social work because I am a formerly incarcerated individual.

[8:48:13 PM]

What I like to call a re-entry citizen. I came here because I needed to be the change that I wanted to see. I'm a person in long-term recovery, and for me that means I haven't used alcohol or drugs since December of 2012. I'm living a sober, joyous life and I would like to see the same hope when it comes from people applying for meaningful and purposeful employment. Currently I'm interning at the Travis county correctional facility. I was only allowed to work there because I wrote a personal letter and had the forceful backing from my university professor. This would not happen for other individuals that don't have privilege like myself. My background wasn't seen as useful. It was seen as a barrier. Ultimately, I was allowed, but I cannot use a computer, and I don't receive a badge, and I enter differently than my other colleagues that simply pass by me as I'm in line taking off my shoes and going through the metal detector, explaining each day that I'm in there that I am an intern. I made mistakes when I was younger, and also when I was not so young. My life wasn't what my parents had imagined for me, or my teachers. Because I made those mistakes, I refused to let those mistakes define who I am, and define my legacy. My story is one of hope. A story that I hope will inspire and give hope to others. What is the story you are leaving? What is the legacy you will leave?

[Buzzer sounding] Do not allow others to work towards their dreams, allow people to tell their own story, provide money to support their families, and get meaning and purpose through their employment. Thank you.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: After Liz hocker, the next speaker will be Richard Taylor frost.

[8:50:15 PM]

>> Hi. My name is Liz hocker and I am executive vice president and managing director at a local company headquartered here called vcfo. We provide senior level finance accounting, H.R., and

technology consulting services to companies. We hire chief financial officers, human resource executives and professionals and chief technology officers to companies. And they all consult with our clients. They are consultants and they go out in the field and work with companies every single day. I have personally worked with over 50 Austin companies over the past nine years on H.R. Policies, procedures, and legal compliance. Most of those companies were between 10 and a hundred employees and did not have dedicated H.R. Staff or department. While most of us -- most of this I've heard tonight and I've talked to out in the community about this ordinance really agree that this is a very honorable and well intended ordinance. But what we're finding also is that the way it's written is very difficult for a lot of these businesses to comply with based on their model. Not all, but many. And, unfortunately, I haven't been able to see the changes that were suggested tonight. I would love the opportunity to take a look at those changes and to see if they fit our business model. But much like a staffing company, we -- we put two financial and H.R. People out in the field every day at a moment's notice. We'll get a call just like a staffing company, and they will need help with their business. And so we -- we're in a position where we don't have the time that it takes to go through a lengthy background check process and hope that there's -- you know, at the 11th hour on a background check. Our chief financial officers and H.R. People are exposed to personal medical information, financial data and so on every day, and we are required to protect our clients who give that information to us.

[8:52:19 PM]

[Buzzer sounding] So I would like a chance to look at the changes and have more time to review this ordinance. It is well intended. We just want to make sure it will work for everybody in the company -- in the city. Thank you.

>> Mayor Adler: Thank you. Next speaker is Richard Taylor frost, and Kim flores is on deck.

>> Hi. Good evening. My name is Taylor frost, and I'd like to thank all of you for allowing me to come speak here this evening. I come here as a recruiter on behalf of my company, flux resources. Flux resources is a staffing firm. Our office is located in south Austin not too far from here. We specialize in providing our clients the most qualified candidates for their staffing needs on a statewide and national level. Everything from general labor all the way up through senior level management. At flux, we currently and already follow fair chance hiring practices, and we do so because we feel and believe that it is just and, quite frankly, it's the right thing to do. This provides for more diverse workplace, and actually increases the applicant pool, which, in turn, helps us to fulfill our clients' needs more efficiently, and arguably, at the same cost, if not less, than not following these practices. And I'd like to say on a personal note, I've spoken with many, many, many quality individuals, really good people, who would have never been considered for the positions that they hold today if we didn't wait for the conditional offer to be made in the hiring process. So in closing, on behalf of flux resources and, obviously, myself, we support the passing of the fair chance hiring ordinance here in Austin, Texas.

[8:54:23 PM]

>> Mayor Adler: Thank you. Ken flores is the next speaker and on deck is jimmy James Preston.

>> Hi. I'm Kim flores. I work with Liz hocker at vcfo. As Liz mentioned, we hire consultants to provide professional services and accounting and finance, human resources, recruiting and technology, to businesses and a variety of industries. Our consultants are exposed to extremely sensitive data and situations on a daily basis. We do conduct criminal background checks as part of our hiring process to ensure we're protecting our clients and our employees. We do not have a practice of denying employment simply on account of a criminal conviction. However, there are certain offenses that would prevent someone from continuing in the hiring process. For example, an individual convicted of embezzlement, fraud, or identity theft, would not meet our criteria because they would be exposed to client data, social security Numbers, payment and other sensitive and financial information. The more time we spend with a job candidate and the more we get to know them will not change the outcome of the hiring decision if they have a conviction that's in conflict with our business and the specific requirements of that position. Vcfo fully supports initiatives to get people back to work who have a criminal background. However, this ordinance proposal increases cost to employers and could prevent the candidate from other job opportunities where their background will impact that position. There are already laws in place to prevent companies from denying employment based solely on criminal history. Employers should have the ability to make their hiring decisions within these established guidelines and not be subject to additional requirements beyond what the federal government has enacted. We request that the council consider allowing the background check inquiry to happen earlier in the hiring process, preferably after the first face-to-face interview. Thus, low employment rate, employers can lose out on qualified candidates by delaying the background check to the end of the hiring process. We also request that the council delay taking action on this proposal to fine tune the details of the ordinance to provide the best solution for the people and businesses of Austin.

[8:56:34 PM]

Thank you.

>> Mayor Adler: Thank you. Next speaker is jimmy James Preston and Roberta Schwartz is on deck.

>> Thank you so much for having me speak. Councilmember Renteria, thank you for supporting this. I'm a district 3. I have a conviction history. I moved here five years ago. Took me a year to find a job. A queer to find a job, and it was because I had a friend who worked at a biotech company that had a conviction history as well, so I was brought in from a friend. That's the only way I got that job. After we all got laid off, I decided to go back to school. Witten to get my associate's at ACC, local institution, it's great. Graduated with honors. I transferred to Texas state. I'll graduate in may. I've been on the dean's list every single semester. I'm trying to prove my worth. I'm a 40-year-old man that can't get a job. I'm terrified job. I'm terrified I'm going to have trouble paying my bills. I've racked up over \$70,000 in student loans over the past 3-4 years, as I'm trying to reeducate myself and reintegrate into the society. If the status quo is allowed to stay as it is, I will have obstacles. And not only that, as a communications

director, I've had a chance to meet so many people that are affected by these issues. This is important. This is civil rights legislation that needs to pass. There are families that can't feed their children because they can't get paying jobs. I urge you, please, pass this ordinance tonight. We need this in Austin. Let's make history. This is a tsunami of change that can go through the south.

[8:58:35 PM]

Thank you, mayor. Thank you, councilmembers, for supporting this ordinance. Thank you.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: As an aside, parenthetically, I note that in today's statesman, there's an article that quotes the speaker of the house, the United States speaker of the house Paul Ryan, who said that he had become a late convert to the need for reforming the criminal justice system. He pledged action on the house floor. His quote was, "Redemption is a beautiful thing," Ryan said. We need to make redemption something that is valued in our culture, in our society, and in our laws. Just thought I'd note that.

[Applause]

>> Mayor Adler: Ms. Schwartz. Louis on deck.

>> I'm an employee of goodwill industries of central Texas, here to testify on behalf of the organization. I'm here to object on behalf of the organization to the ordinance as written. I want to clarify what that means. Goodwill believes in fair chance hiring, and we actively practice fair chance hiring. We have approximately 1600 employees. We have employees at all levels of the organization who have criminal backgrounds. We also serve thousands of people through our workforce advancement programs, through our charter high school, and through our technical academy. 60% of the people that we serve have criminal backgrounds. Our primary goal is to make sure those who come to goodwill receive education and job training that will lead not just to jobs, but to career pathing that is sustainable and life-changing for the employee, their family, and our community. Our mission is to empower 100,000 central texans to transform their lives through work. We need the right fair chance hiring ordinance to help us keep them successful.

[9:00:37 PM]

What we are objecting to in the ordinance is certain language that we think is important in order for it to have long-term impact and succeed. We believe that we need to more clearly define the term "Offer," especially as it relates to temporary agencies. We believe that we need to allow background restrictions in advertising for certain positions that are going to absolutely have strict requirements. For instance, if

somebody is a convicted sex offender, they're not going to be able to apply for a job in a school. They're not going to be able to apply for a job in a daycare center, so what would be the objection to having that kind of a strict requirement in the job advertisement? We believe that allowing a criminal background check earlier on in the process is also really important. And the reason is that you want somebody to get in the door. We want them to be able to get in, have a fair chance to be met, but --

[beeping]

>> Can I finish? Okay. We want them to be able to get in the door and have a chance to be seen, but we don't want, for instance, the person to be able to have no hope and wait a long process and then get turned down at the end.

>> Mayor Adler: Okay.

>> So we support the ordinance, but not as written. We object to it as written, and we'd like more time for review.

>> Mayor Adler: Thank you.

>> Zimmerman: Mr. Mayor. Along those notes, I believe someone came from goodwill on November 9th and testified.

>> It could've been the senior vice president of community engagement and public affairs.

>> Zimmerman: I'm in receipt of a letter that I believe was sent out at 10:30 A.M. This morning. And I think it is remarkable. Your organization -- I consider, kind of, the posterchild for reintegration for hiring ex-felons, people with conviction histories. I think you're doing a stellar job. And I think it's interesting that you're going that with no mandates.

>> Well -- if I had had the three minutes that I originally had planned on, I would've told you that I'm an executive at the organization, vice president with fairly big responsibilities.

[9:02:46 PM]

And I'm one of those people who has a criminal background. But I understand why it's important for us to have better, stronger language in the ordinance to help it be more successful. So.

>> Zimmerman: I appreciate that very much. I did listen to the testimony back on February 9th. And I listened to it very carefully. And I believe the speaker signed up as being neutral on the item. But when I listened to all the comments that were made, what was left out was the idea is that, you know, goodwill is already doing this of their own volition.

>> Right.

>> Zimmerman: They don't need to be mandated. There were several other speakers, Mr. Mayor, who spoke to this issue. I believe we had a barbecue owner, Hugo's, and he said they're doing it, too. Some small businesses, they're already doing it without mandates. And they say, you know, we object to the mandates.

>> Well, and I think that's exactly right, because it puts restrictions or qualifications on things where you don't otherwise need to restrict them. It may prohibit somebody from doing what goodwill is already doing.

>> Zimmerman: It takes a good intention and creates negative, unintended consequences. That's the way I view it. Thank you.

>> Thank you.

>> Mayor.

>> Mayor.

>> Mayor Adler: Yes, Ms. Troxclair.

>> Troxclair: Go ahead.

>> Casar: I was in receipt of goodwill's email this morning. Just to clarify, the childcare example or the schools examples have always been in the area where this ordinance does not apply, because they're already-existing restrictions. And I appreciate that goodwill waits until the conditional offer stage. And we're just asking others who don't do so to do so, because I think that that's a best practice. And I think it was Jerry Davis, their CEO, who had expressed that. And then finally, as far as the staffing agency issue, you know, I think that we've hopefully addressed that well tonight.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: I'm sorry. Can you come back up, ma'am?

[9:04:49 PM]

Maybe I misunderstood. Does goodwill wait until the conditional offer stage?

>> [Off mic] I'm not sure where that miscommunication was from. To be honest when I was first hired, I had come to Austin at the point where I had made mistakes and was facing incarceration. And I started as a temporary employee. At that point, I had no background, because I had been yet been arrested. So they ran a background check while I was filling out the paperwork, and taking all of my tests, and then placed me on a job. When I came back to Austin in 2005 after I had spent two years in prison. I went back to goodwill. At that point, they couldn't place me at most of the places they could've before because of my background. But they ran the background and said, you can't work at the state, or the city right now. But we can put you to work here. So then running the background check didn't prohibit them from hiring me,

or prohibit them from helping me. They didn't wait until they had a job to place me in to run the background check. That's not part of our current practice.

>> Casar: I think there may have been some confusion between the staff and Jerry at that meeting. I think ultimately, the goal here is understanding that there's some balance we're trying to strike in the conditional offer stage, and I think that's what gives people the most opportunity, and we may have to disagree on that point.

>> As somebody with a background, if I went through a whole process that could be long, involved, and have interviews, and I had hope and then I got to the end and they made me a conditional offer subject to the background, and then said I can't hire you, that's devastating. That's the kind of thing who sends people who may be coming from different places without family support or some of the education I had, that's the kind of things that makes you just throw your hands up and say, I might as well just go back to jail.

>> Casar: This may be a point at which we disagree, and many folks also have a different point of view.

[9:06:52 PM]

And in the end, I think it was in North Carolina, they studied the city as an employer and going into the fair chance policy. Many more people were hired because they managed to go through that process. I think this is a point on which we disagree, and that's okay. Thank you for your testimony.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: I just wanted to make sure that I understood your -- or good goodwill's concerns. The first one was to better-define the term offer?

>> In relation to the staffing agency. Goodwill has a temporary services department as well as all of our other business operations, so we're as concerned as the other staffing agencies in making sure that that -- the term offer is clearly defined. Because like the other agencies, when you come into the staffing agency, you fill out your application, they run the background check. That's how they know I can place Roberta on a job with Joe Smith's private company, but I can't place her on a job with the state of Texas. So, it doesn't prevent me from getting a job, it just prevents them from putting me in a situation where I'm not going to succeed and they're not going to be able to help me.

>> Troxclair: So does the language that councilmember Kitchen added earlier address the concerns or no?

>> So I guess I would say, on the surface, just reading it off the screen, it appears to. But without being able to really read it in context of the other amendments, I would not -- it would not be good for me to say yes.

>> Troxclair: And the second objection was to allow certain advertising?

>> We feel like there's certain positions you know you cannot hire people with certain backgrounds. I gave the example of the sex offender. I think maybe a position a little bit closer to home at goodwill would be, we're not going to hire somebody as a cashier who's just getting out of prison from having stolen cash from their former employer.

[9:08:55 PM]

But we would probably put that person at some other position. There's plenty of other positions in the stores or in the organizations that don't require somebody to be handling cash. But you don't know that. So.

>> Troxclair: Councilmember Casar, has that been addressed in this language, or . . . ?

>> Casar: Yes, the background check can be described, how that individualized assessment is going to be done, and the criminal background check process can be given in writing. You aren't precluded from letting people know you're going to run a background check at the conditional offer stage. The hope being that applicants can understand that they're going to have a background check and can hear from the employer what that process is without going to the extreme of putting on an application that you cannot have a job if you have a criminal background check.

>> And I think that was the other part of the objection, is not to waiting until the person comes in to run the background check, but waiting until that far down in the process to run the background check, because that's costly to the employer, and it's unfair emotionally to the person applying.

>> Troxclair: Okay.

>> Mayor Adler: Okay? Thank you very much.

>> I have a question.

>> Mayor Adler: Yes, Ms. Garza.

>> Garza: Can you explain the goodwill process? I was an employee of goodwill as a contract attorney for the state, when I got on with the state. I don't have a background, not that it matters. At what point do -
-

>> Actually, we took -- so it's different with the temporary services agency, because there are employees, but they are going out to state contracts, city contracts, or private business. So some of those have restrictions right now. For goodwill industries, for our main businesses, and for employment at the -- whatever other jobs there are in the organization -- we no longer have a check mark on the application that says that you have to disclose if you have a criminal background.

[9:11:02 PM]

And we do not run background checks on every single person that's hired. It's not an automatic thing anymore. It's a policy that we've changed, so.

>> Garza: I'm just trying to understand your process, because it seems like all the temp agencies are saying the same thing.

>> Okay.

>> Garza: That this hurts their model because -- and so -- I don't understand how the amendment suggests it doesn't address that, because it says -- it changed it from the conditional offer to, at the point when they're put in the pool. So they're put in the pool. Before they're put in the pool, the background check is run, which allows them to be --

>> I mean, so just to clarify, the staffing agency is one business operation of goodwill, then we have the other. If I'm speaking specifically to the amendment on the staffing agency, on the surface, from what I could see on the screen, it looked like it was okay. But without reading it in context of everything else, I don't feel comfortable saying on behalf of the organization tonight, yes, that satisfies me. We would need to look at the whole thing and have a better understanding. In terms of the actual process of the staffing agency, the way it works right now is that the background check is run at the time that the employee comes in and signs up for the temporary staffing. So they do an online application. They do an inperson interview. They do some skills testing. And if they've got -- if they meet our other requirements, we will sign them up as a temporary employee. But part of that whole process is running the background check. So you know right on the day they sign up and become part of our pool whether they have a background or whether they don't. So if somebody has a background that is -- it's less than -- you know, it's a class C mis-dean or misdemeanor or less, they may be eligible for a city job.

[9:13:05 PM]

You know where you can place people. You can sign them up without having a specific job assignment on that day. Your goal as a staffing agency and for us as placement people is to find jobs for them as quickly as possible. We don't want a roster of a hundred people on our staffing agency without any jobs to be placed in.

>> Garza: So why couldn't the process be tweaked? They come in that day, you do all the other things. And stop. Before the background. So you stop that day. They've -- you've done the assessment. You've done the online, you've done all those things. You get to that point, and see, yes, this is somebody that could be in our pool if they could -- pending the background check. And then, maybe later that day, then run the background check, after all that initial -- aren't you just changing the chronology?

>> I'm not sure I understand whether we run the background check right there as part of the signup process or whether we run it later that day, we're still running it right at the point of entry for the person. And the reason we're running it is to that we can help them succeed and be able to know where we can try

to place them and where we can't. We have a lot of private business clients that will hire people with backgrounds. So if I went in and signed up and they ran my background and I had a background, they know they can place me in this pool of jobs. They're not going to have a state job, then run my background, then turn out that they can't place me in a state job. So, the temporary business, it's a fluid business. It's usually somebody comes in for a temp job, they're looking for a job right away. They need money right away. They're not wanting to wait, so.

>> Garza: Maybe we're just -- I understand that. I'm just saying the background check can wait until the end of all that other stuff. You want to put them in the pool. All the other stuff has been done. And on that same day, you can run the background, except it's the last thing that gets them in the pool.

[9:15:10 PM]

It seems like it would just change a process that your organization is already so used to. So if B is the background, and you have to do a, B, C, D, E, F, why not just do a, C, D, E, F, they're ready to go to the pool, do the background at the end, that determines if they're officially in the pool and they get diverted? I'm not understanding how --

>> What I'm saying about delaying -- the point of the objection about delaying the -- about having the background check sooner than the conditional offer is related more to the general business, not the staffing business.

>> Garza: I'm not talking about the conditional offer anymore.

>> Okay. I'm not an expert right now in the process, so I can't give you a good answer --

>> Garza: Okay.

>> I'm also not really understanding. I'm trying to understand, because I think you're trying to get me to a place, but whether I run it at the point that somebody's in the office or two hours later, it's still being run relatively quickly so we know how to place the person. I don't see that as a real change in process. I think we're saying the same thing.

>> Garza: We may be.

>> Casar: And, mayor, just -- I think this is something we've heard sort of consistently through this -- especially in the last week or two, is some feeling that businesses might be wasting their time with someone. But the corollary argument is that those businesses are spending their time and investing that time in the folks like we have here today, and giving them chance and that opportunity. And so I would urge that we think about it that way. And that's sort of the way that I think about it, because I think that of the people who have testified and who will testify coming up, that they would make great employees. And they aren't a waste of people's time to not only interview, but fully consider before running that background.

[9:17:14 PM]

And I think they make great staff for the city, great staff in my own office, and for many of the businesses. I understand we have a difference.

>> I don't think I'm saying we're wasting time.

>> Casar: I'm in the saying you're saying that.

>> Just clarifying.

>> Casar: I think there is that difference.

>> Thank you. Thank you.

>> Mayor Adler: Our next speaker is Lewis Conway. And then Jorge Reno.

>> Good afternoon, evening, I apologize, mayor, councilmembers, councilmember Zimmerman, and at opening, I am one of those people who applied for jobs and got turned down immediately because I was a felon. So it doesn't matter where it happens in the process. I think it's a discouragement. So I think that's the purpose of this ordinance, isn't so much to clarify who should be hired. I think it's about being fair in the process. I did eight years in prison, 12 years on parole. I found it entirely impossible to find employment on parole. The times I lied I got fired. The times I was honest and said I was a felon, I wasn't given an opportunity, so I became an entrepreneur. But this ordinance isn't a big deal. It's not something that's not already being done. It's just not being done here in Austin. I'm proud to be an Austinite. I was born in Austin. I'm proud of what the mayor is doing. I'm proud of what you guys are doing. But I'm concerned that the conversation is becoming exclusionary on the basis of what if this person has this type of a crime, and he isn't allowed at this type of a job there. There was no job I applied for that I was guilty of that crime, and I was still denied that job. So, what we're saying is, even the playing field.

[9:19:17 PM]

Give me a fair chance. If I'm denied in the door, then you're hurting the city, because I'm not able to be a productive citizen. It's almost like that perpetual loan. I spent the day talking at UT to students about having a loan that I've already paid back, but I'm still paying interest on this loan after it's paid back, the interest being I can't find employment. I'm 46 years old. I can't own a house.

[Beeping]

>> And my time is up. But, thank you all.

[Applause]

>> Mayor Adler: After Jorge the speaker's going to be Andrew Mcfarland.

>> Mayor, members of the council, I'll be brief. My name is Jorge, and I am an organizer with the Texas advocate for justice. Which is a group that is comprised of individuals who have been formerly incarcerated or directly affected. I have been formerly incarcerated. I am not here to talk about myself or members of the organization. I'm here to talk about that child who their father spends 10-15 years in prison, accumulates \$40,000 in child support, and the father comes out and applies for job after job after job, and isn't able to get employment regardless of his qualifications. He's rearrested for failure to pay child support, returned to prison, and that family is further sundered. I'm here to talk about that wife who stands by faithfully while her husband spends 10-15 years many prison, comes out with a bachelor's degree, two or three vocational trades, and is unable to find employment and contribute to his family, and another family is sundered. That happens thousands of times in this community every year. And I also want to talk about the privileged few who stand in opposition to this ordinance.

[9:21:19 PM]

The privileged few were trying to persuade you against this ordinance, to delay it, ignore it, hope it goes away, perpetuate a history of social discrimination that has resulted in something that's now fondly called "Collateral consequences of incarceration." A privileged few who are trying to persuade you to continue a policy that has resulted in families, communities, and entire neighborhoods on the east side and south side of Austin impoverished, destitute, and unable to climb out of poverty. I ask you to please vote for those families, and for fair chance. Thank you.

[Beeping]

>> Mayor Adler: Thank you.

[Cheering and applause]

>> Mayor Adler: After Andrew Mcfarland, it is Suzy. Is Andrew Mcfarland here? Is Suzy bannen here? After Suzy will come Reggie Smith.

>> Good evening, mayor, and city council. Thank you for this opportunity to speak to you tonight. My name is Susana, Suzy, bannen. I've lived in district 9, mayor pro tem Kathy tovo's district since 2014 when I started my ph.d. At UT, where I am employed as an assistant instructor. I earned my master's at Texas state and my bachelor's from U of H. My research focuses on the rhetoric of criminalnality, the stigma of criminal records, and the role that public policy takes in shaping both of these things. So I chose this area of research because since coming home from prison in 2010, I have consistently been treated as a second-class citizen, in particular of the area of employment.

[9:23:24 PM]

While I have taken every opportunity possible to redeem myself in the eyes of society by staying sober, by sponsoring others, by earning two degrees, entering a competitive doctoral program, published my research, volunteering for multiple organizations, and being an honest, hard-working, and compassionate municipal being, discriminatory hiring practices keep employers from ever seeing those things about me. All they see is the fact that I have a criminal record. I feel like I have accomplished a lot of good in my life, and yet I still feel shame because in the eyes of society, I am damaged goods. And this doesn't only affect me. I've been exceptionally fortunate in that my family has supported me when I have been unable to find work, but my parents should be enjoying their retirement, not worrying about whether or not their 35-year-old daughter can pay her rent. And if someone comes from this much privilege, and has this much support with a graduate degree, and cannot make it in Austin, how can someone who is less fortunate do it? From a researcher's perspective, findings and case studies from cities and counties with fair chance hiring policies show positive effects on employment of people with criminal records, recidivism rates, and on businesses, among other variables.

[Beeping]

>> With the present affordability crisis in Austin, there's an entire class of people being left behind who could be contributing and taking care of their families. Do something monumental not only in Austin, but in the entire southern United States. Vote yes on this ordinance, and please do it tonight. Thank you.

>> Mayor Adler: Thank you.

[Cheering and applause]

>> Mayor Adler: After Reggie Smith, the next speaker is going to be Greg.

>> Good evening, my name is Reginald Smith. I can't really top what everybody else has said tonight.

[9:25:25 PM]

I would just say that, you know, when I got out of prison, it was very hard for me to get a job. We've heard how hard it is to get a job. And because I was very fortunate and very blessed, I was able to finally find employment. And as a result of that job, I was able to get a place to live. I was able to go back to school. And now I'm a student at the university of Texas at the school of social work. But, you know, I hear tonight so many people getting up and expressing to you how hard it is to get a job in this town. I know you all know how hard it is to -- how expensive it is to live in Austin. And I also think that you know that it's better to have people that can work than people that can't work. I think it's better for their families. It's better for the communities. I really feel disappointed in our business community because they want to take an issue that is so important to so many people and reduce it down to some legal minutia to keep from having to do paperwork. This is about people's lives. I understand how important the

business community is in Austin, but it's the citizens, the everyday people in this town who go to these businesses and spend their money. I understand you have to hear their voice. I'm asking you tonight to hear our voice. Thank you.

[Cheering and applause]

>> Mayor Adler: After Greg, the next witness or testifier is going to be Darwin Hamilton. Sorry.

>> Thank you, I'm a policy analyst. And we are against the ordinance. Just want to say that the policy foundation is in strong support of re-entry programs. I was hired specifically to work on re-entry in the city of Austin, and also in the state of Texas.

[9:27:26 PM]

We have supported bills at the state level for record-sealing, identity for employers and housing managers so you don't get sued if you -- someone commits a crime after you hire them. So we're in total support of reentry programs. However, this is not one of them for the following reasons. We think that this is just creating another hostile business environment for the city of Austin. It's a regulation that's going to cost small businesses large amounts of money to change hiring practices and ensure compliance in order to prevent litigation. It takes money out of the bottom line, essentially. But also, I just want to briefly discuss the legality of fair chance hiring and ban the box. It's under the police power, if you look at page 1 of the ordinance. I think this is stretching it thin to say that this is a proper act of the police power. As you all know, the city can only use the police power if it substantially advances the health, safety, or general welfare of the people in a nonarbitrary manner. Requiring private businesses not to inquire into background check's until time certain, I think that's fairly arbitrary, and I think that argument can be made in a lawsuit. It opens up a lot of litigation for the city of Austin. Additionally, I think this is an unconstitutional infringement on regulating speech to prevent someone from asking about a question for a private business. And there's a due process claim. We heard about a lot of different businesses tonight with, you know, temporary hiring, goodwill. I think about trucking businesses, things like that, where they use the I-35 corridor. Is that considered, now, an employer under this statute? And if you look at economic --

[beeping]

>> Background regulations, they say whether a state's effect is burdensome as applied to the individual business. If I'm a trucking business and I get knocked with something, I'm going to sue the city of Austin. So I think this opens up the city to a lot of regulation.

[9:29:29 PM]

This is why the city of Tampa did not go forward with a similar ordinance. If y'all have any questions, I'll be happy to answer them. Thank you very much.

>> Mayor Adler: Thank you very much.

>> Zimmerman: I have a question. Could you speak to some of the states? I know there are some states that have passed these kinds of laws, but Texas as a state that has not. Can you talk just a little bit about that, about some of the states that have passed these laws, and how Texas is different?

>> Hawaii was, I think, the first back in 1996. I believe that was the first state to pass ban the box. Seattle, Washington, did. My home city of Baltimore, Maryland did. They put criminal penalties involved with that, which I'm glad not to see in this ordinance. I believe the state of Texas has not had any, other than the city of Austin does it for public employees, but not in the private sector. I haven't seen much research on the actual private sector. I know there was a Durham, north Carolina study that came out. Councilmember Casar referred to that. But it was only for the public sector. So, obviously, the public sector is going to create additional jobs. But we haven't seen any data come out on private business. And I think there's about 25 or so states -- I mean, cities and six states that have gone to a private business. So, Texas would really be out there compared to the rest of the states.

>> Zimmerman: Okay, thank you. Thank you.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: On the study that you just mentioned, I thought I heard councilmember Casar say earlier that -- something about how it proved that with not making an offer -- or not checking the background until a conditional offer is made, they ended up hiring more ex-offenders. But is that compared to having no ban the box policy, or fair chance policy at all, or is that between checking the background after the first interview and not checking the background until a conditional offer is made?

>> I'm not sure how the city of Durham implemented their ordinance and what it was, but it was just for public sector employees.

[9:31:35 PM]

I'm not entirely sure what they were doing prior to the bill, and what the methodology of the study was. But I know that individuals with criminal backgrounds, the amount of people that were hired for the city itself, did increase, which kind of makes sense that the city was the one who implemented it, and now they're going to put more people involved. But for the private sector, we haven't seen any study showing the positive effects of fair chance hiring policy or ban the box.

>> Troxclair: I guess the only way to measure it is to put yet an additional regulation on the business to track and report how many ex-offenders they had hired previously, and how many they hire going forward after a policy is put in place.

>> Exactly. And, again, this is just more paperwork. I don't think anything that's been discussed tonight is the subpoena. Yes, there's records, but it requires you to testify. If I'm a 15-person shop and I have to take a day off to testify for a potential investigation, it's just more time, energy, and money that a small business really can't, as applied to a small business, it's unduly burdensome. That's the standard when you're looking at economic ordinances in the state of Texas. That case is patel if anyone's interested in reading that. The eyebrow thinning case.

>> Zimmerman: I got a phone call this morning from county commissioner Gerald doerty, a small business owner. His adjective for the ordinance was, it's "Appalling." I think he backs up your position on this.

>> Yeah.

>> Mayor Adler: Thank you. Next --

>> Casar: I just wanted to clarify. It's just a clarification. You aren't considered an Austin employer under the ordinance unless you are working 20 calendar weeks. So, I know that for truckers, the traffic problem is bad, but, it doesn't require 20 weeks.

[9:33:36 PM]

[Laughing]

>> Zimmerman: It would be easy to meet that in a traffic jam.

>> Casar: I wanted to lighten up the mood a bit.

>> Mayor Adler: The next speaker is Darwin Hamilton.

>> Casar: Another point of clarification around the burdensome nature. As it stood previously, you could be cited for a first offense immediately. But now under the amended ordinance, you always have a chance for a warning at the time of first violation if you get some training. Hopefully that will help make sure that people learn about the ordinance.

>> Mayor Adler: Then the next speaker will be martin. Sir.

>> Good evening, council. I'm speaking on behalf of myself and as a member of the re-entry advocacy project, and a member of second chance democrats. I support fair chance hiring because all too often, due to stigma that is rooted in prejudice, ignorance, and fear, and ascribed to those of us who have been incarcerated that we're not supposed to be intelligent, or articulate, or sophisticated. I'm a living refutation against all of that, because my physical appearance doesn't say to you that I spent 5 1/2 years incarcerated. It doesn't say to you that I got out of prison in 1998 at the age of 24, and also that I've spent the past 18 years working for state government. So, that is my refutation against some of the stereotypes. But many of my peers aren't necessarily as fortunate. And what you have to know and understand is that when a person gets out of prison, they're given \$50 and a bus ticket and told to go on with their lives.

They're expected to be successful. Meanwhile, the state of Texas already has 200 laws that restrict employment for persons with criminal histories, and there are also 1900 separate licensing and statutory restrictions that prohibit or bar employment. So this fair chance ordinance is only one measure to help those people overcome that hurdle.

[9:35:38 PM]

So what I would say to you is, for those of you who are in opposition or in doubt as to whether or not you should support this ordinance, let me remind you, you will not always be a member of this dais. And no one knows their destiny. And you, or possibly members of your family, will one day make a mistake, be arrested, and you will wish, hope, or pray that you had men and women like us advocating for your opportunity. So I would say to you --

[applause]

>> Use your leadership and this opportunity to do something transformational.

[Beeping]

>> Mayor Adler: Thank you.

[Applause]

>> Casar: Mr. Hamilton, I've heard you share the story of how difficult it was to find a job. Would you share that?

>> Yeah, I spent a number of years in a private institution that basically offered high-tech training. And so it was in the semiconducting industry. And I believed that I would be able to come back to Austin in 1998 and transition into this high-tech industry, only to discover that employers like Dell, IBM, ti, and others, wouldn't employ me. So I faced what you call corporate hypocrisy, because they were content to contract with us when we were manufacturing circuit boards. When I interviewed for the state government, there was an assistant director at the time who asked me, well, why should I trust you? And I said, because that's not who I am. I was applying for an accounting position. And they asked, why should I trust you? I said, because I'm not a thief. I'm not a robber. I'm not a white collar criminal embezzler. My conviction was for drugs. I have been honest with you. You be honest with me. If I'm not going to get this job because of my criminal background, then I'm going to face discrimination for the rest of my life.

[9:37:43 PM]

And your decision should be based on merit, and not my criminal background. Another one of the questions that she asked me was, well, why should I hire you? And my response to her was, because I

believe that I'm capable, and regardless of whether you have a master's degree, a bachelor's degree, or a ph.d., no one can walk on a job and perform. They have to be trained. And therefore, we are equal.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: Martin Connor, and Vincent Harding is on deck.

>> Good evening, ladies and gentlemen. My name is Connor martin. I first heard about item 19 at the university of Texas. My immediate objection to this ordinance is that the government is telling the businesses how they should hire, or how they want them to hire. That sounds like a mugging. It sounds like they're holding a dull knife to the side of the business and saying agree to us or be penalized. I think, instead, that we should provide incentives to the businesses to comply with the ordinance that y'all would like to pass. I believe this would both remove the stigma that was mentioned earlier about hiring previously convicted individuals, by those businesses that choose to partake. If the previous individuals had a great record, other businesses would see that and hop on board. Before you know it, more and more businesses are complying with the ordinance. And I believe it's important that people have jobs. I was told the greatest social program is a job. I believe jobs should be available to everyone. But I don't think that it should be at the expense of government influence over business.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Mr. Harding. The next speaker is Jacqueline con.

>> Mayor, council, good evening. My name is Vincent, chair of the Travis county democratic party.

[9:39:45 PM]

Our party unanimously approves a resolution supporting this measure. I believe everyone deserves a second chance, and after an individual has paid his or her debt, the individual should be able to reintegrate into society. In some instances, although an arrest or conviction has been resolved, it results in the individual essentially living with a lifetime sentence of second-class citizenship. I ask that you move forward on that provision. Today I have heard countless number of business individuals come up to this mic and complain about the staffing agency provision. Specifically, they say there are jobs that require us to respond today. Some have complained that sometimes criminal background checks take up to 48 hours. I'd ask this council to consider clarifying your amendment, councilmember kitchen. In your amendment, it leaves it broad to where to get on the hiring pool list, we can go ahead and get a criminal background. I would ask that we add language that limits that to maybe three business days or something that gives enough time for the criminal background, but does not allow every single job for the staffing agency to fall within this provision. I think this measure is too important, and we have got to get this right. And we've got to be specific on what we want to do right here. I believe government cannot solve every

problem. But this is an example where government and business can come together to move our community forward. I believe in grace and forgiveness. It is important that we move this policy forward. It helps people become productive members of our society. That would be true justice, real justice. And I thank you.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: The last speaker is Jacqueline conn.

>> Oh, that's nice. My name is Jacqueline conn. I have a master's degree in public policy in Carnegie melon, and I don't get callbacks on jobs where I have to disclose I have a 15-year-old felony from when I was 19.

[9:41:54 PM]

This ordinance matters. And we know that it matters because of the meritless pushback of misinformation that we have heard tonight. The meritless pushback based on nothing else than white supremacy. I'm just going to say the uncomfortable truth.

[Clapping]

>> Standing on the wrong side of history is easy at first. It's easy to be bullied into that. But at the end of the day, it's not a good look, and it's pretty bad press. It's not easy for us to stand here, for me to say that I grew up in prison. I was 24 when I went home, and I learned really quickly what it was like to be considered trash, to be considered an object. It's a lesson that's reinforced every time I go up to apply for a job. If this ordinance is passed, it becomes the first time in my adult life that I know what it's like to be an equal in the application process. Thank you to councilmember Casar, councilmember pool, councilmember Houston, for supporting this out of the economic opportunity committee even when it was just ten or more employees. Thank you for voting on the right side of history tonight. Thank you for listening to me, for listening to the people I love get up here and speak before you, because it's not easy for us to do that. Thank you for helping me rejoin society. Thank you for voting for this, or even considering it. I'm going to wait until the buzzer goes off in case anyone has any questions, or maybe we could just start the questions and talk over the buzzer.

[Laughing]

[Beeping]

>> Zimmerman: Mr. Mayor. Maybe now would be a good time for me to relay a personal St story. I had an aunt who lived in Baltimore. She was sexually assaulted and murdered. She was a real estate agent.

[9:43:55 PM]

And the person that murdered her was a 22-year-old ex-convict who had been convicted of burglary. And kind of an emotional thing for my family. She was murder victim number 345 or something in Baltimore. And she was murdered by an ex-convict who had just recently been released. I don't hold any ill feelings or any vindictiveness against that, because it can happen to anybody at any time. But another bitter part of that death was, she was a very, very, very strong antigun -- she was a gun control advocate.

>> Sir, I'm having a hard time following your question.

>> Mayor Adler: He's just talking.

>> Sure.

>> Zimmerman: It's really important. You relaid to me something personal and emotional. I'm doing the same.

>> Mmhmm.

>> Zimmerman: This goes all around. All of us have stories. All of us have situations. Okay.

>> So, in response to your question, I would say that's very sad. And I don't know how that's relevant.

>> Mayor Adler: Okay. Any questions for this person?

>> Casar: I have one question.

>> Mayor Adler: Yes.

>> Casar: Ms. Conn, I recall during the committee process that you said you were still looking for a job. And you had relayed that. I recall that you mentioned you're working somewhere. Could you talk to us about that?

>> I'm working at the center for public policy priorities now. I got that job because they waited until the conditional offer to run my background check. And it seemed like a very simple process. It took about two hours for the background to be run. So there are definitely organizes in this city that are already doing, though there are not a lot.

[9:45:57 PM]

It took me about ten months to find a job, and it's only the people who are already vested in social justice reform that are doing these things. So if we're going to say this is a great thing, people are already doing it, it's just not enough organizations.

>> Mayor Adler: Are there any more questions for Ms. Conn? Thank you, ma'am. We're now back up --

[applause]

>> Mayor Adler: We are now back up to the dais. There has been a motion and a second. Any further discussion? Are we ready to take a vote? Those in favor.

>> Casar: Mayor, one last thing. I think it's important for us to have a definition of staffing pool given, councilmember kitchen, legal has drafted that definition for us.

>> Mayor Adler: Okay.

>> Mr. Mayor.

>> Casar: I would just include it. We have copies of the definition of staffing pool.

>> Houston: Will you put it on the overhead?

>> Zimmerman: Was there a motion on the floor seconded?

>> Mayor Adler: There was --

>> Zimmerman: There was?

>> Mayor Adler: A motion was seconded. There have been a couple of amendments that have been added. It looks as if there's an additional amendment now.

>> Kitchen: Mr. Mayor, this is just a clarifying amendment.

>> Mayor Adler: Okay.

>> Kitchen: To go along with the language that we included earlier about a staffing pool. So this is a definition of what a staffing pool is.

>> Mayor Adler: Would you read it, please?

>> Kitchen: It means a list of individuals retained by a staffing agency before the assignment of a specific job to perform for another employer.

>> Mayor Adler: Okay. Yes, Mr. Renteria.

>> Renteria: Yes, mayor.

>> Mayor Adler: Hang on one second. So, before us right now is the kitchen amendment. Is there a second to the kitchen amendment?

[9:47:58 PM]

Mr. Renteria seconds that. Is there any objection to this being put on? Then it's added as well. We're now back to debate on the floor. Mr. Renteria.

>> Renteria: Yes, mayor, I have also a story. You know, my older brother was incarcerated twice in prison. He came out when he was about 32 years old. He had been locked up all his life, since he was about eight years old, grew up in Waco state school. Finally got out of there with no social training. Got locked up. And got into drugs. Got locked up twice. You know. And even now, you know, he's 68 years old, but all his life, you know, even though he turned his life around and became a minister, you know, for 30 years he's been ministering and doing minister work at prisons. But he never made more than \$10 an hour, and never had any benefits because he was a felon. You know. It was a real hard struggle. But, you know, the only thing that saved him was, you know, he discovered god, and god saved his life, you know, so. But that's just one of my brothers. I have two other brothers that spent a lot of time locked up. You know. They never, never recovered from that. One died at 40. Just couldn't, you know, couldn't shake the demon off his back, you know. Society at that time really didn't care about low-income minorities, you know. We was treated as second-class citizens all our life.

[9:49:59 PM]

And when we made one mistake, it was a strikeout for you. They didn't give you three strike back then. I served 16 years in a halfway house. And I've seen the struggle of these people when they came back, tried to become citizens, productive citizens of society. You know. We were lucky to have a couple of businesses in east Austin that would hire these people at minimum wage with no benefits. And that's the way, you know, it was back then. It wasn't -- you know, you were getting back then, if you smoked one marijuana, you were getting life in prison. Those with the kind of things that, you know, people don't realize these days that you made one small mistake and you ended up in prison. And you were marked for the rest of your life. You know. This is a time when we need to check that off. We need to show our compassion, you know, and give these people a second chance, you know. I've seen some of the people that I've worked with in the halfway house that have become productive citizens. I mean, people that I just -- I look up to them, you know, because they became citizens that, you know, went out there and they work hard, they earned their living, and they never complained. You know, these are the kind of people that you would never know that they've been in prison. They're the kindest, nicest people. Yes, there's a few that you're never going to be able to get to reform these people. There's a percentage of them, you know, because, you know, there's always, you know, in life when you're born, not because you asked for it, because, you know, you might not have gotten the education when you were growing up. Not that your parents might have not been there. But, you know, we're working on that, trying to save these young people from repeating their life and being locked up so they can become productive citizens.

[9:52:08 PM]

My youngest son, he got locked up, you know. I did the tough love. He went the three months in tdc, you know. And he came back and he told me, dad, I'm never going to go back there. And he was lucky enough that, you know, there was employers that really believed in him and hired him. And he's now being a real productive person. He owns his house. He's a manager at a grocery store. He has two fine young kids. And I have two grandkids. But, you know, this is what second chance does for you. So I'm going to be supporting this.

[Applause]

>> Mayor Adler: Ms. Houston.

>> Houston: Thank you, mayor. And I appreciate everybody that's come out tonight. This is one of those emotional issues. I appreciate the fact that councilmember Casar and the other members of the council have worked to incorporate some changes to the resolution. I understand the frustration from people who've not seen the whole body of the resolution. And so there's a piece that we've not talked about tonight that I'd like to bring up. And that's the civil penalties, up to \$500 in the current resolution. It started at 100, and now it's at 5. Can you talk to us a little bit about why it's gone up so high?

>> Casar: Certainly. So, in conversation with both the business leaders some of whom were supportive and some of whom were against the ordinance as drafted, along with many of the advocates, I thought it struck a good middle ground to make it so that you don't ever get a fine for a first violation if you get some training. But then that means if you violate it a second time, you can have up to a \$500 violation.

[9:54:09 PM]

And the \$500 matches our other nondiscrimination rules, for example, our rules that we have in the same section of code around discriminating against folks with HIV. It's a \$500 civil penalty. But, of course, that would only be assessed if you did some training, and then you violated it again.

>> Houston: And so I gave my amended resolution so that people out in the audience could see, does it say up to 500, or a flat 500? I don't have it in the current amendment.

>> Houston: Okay, so on 4.15, civil penalties, it says for a civil penalty of \$500 for that violation. And then it goes on to describe the first time violation. Could we say up to 500, so that, you know, for some small businesses, once they go through training and then something happens again, \$500 seems like punitive to me, but I would be better if it said up to 500. But it does say a flat 500.

>> Casar: I believe in getting as large of a consensus in the community and on the dais to support this. So if that's the one amendment that you'd like to make this happen, then I would be amenable to it.

>> Mayor Adler: Is there any objection to saying up to 500? If no objection, then that amendment is incorporated. Any further discussion before we take a vote?

>> Zimmerman: Mayor.

>> Mayor Adler: Yes, Mr. Zimmerman.

>> Zimmerman: I'd like to make an amendment, page 2, under section F, point number 2, f2, it says a corporation wholly own by the government of the united States. I'd like to strike that sentence, section two. And if I get a second, I'll explain why.

[9:56:10 PM]

>> Mayor Adler: Is there a second? Ms. Troxclair seconds.

>> Zimmerman: So, Mr. Mayor, this really galls many of us who see the government as passing rules, that doesn't apply to the government, but applies to everybody else. Congress is pretty famous for passing laws that apply to everybody except congressmen and their offices and the federal government. And I can't fathom why this is in here. I mean, imagine an exemption for a corporation owned by the government, but no exemption for goodwill, which is already voluntarily complying with most of what this ordinance is trying to do. I just think that's despicable.

>> Mayor Adler: Mr. Casar.

>> Casar: If I could take it up, I think the city of Austin and Travis county already have this. And so this is already in effect for us. Of course, corporations like the states have their own governing bodies. And so we would let them make that decision for themselves. But this has always, since the resolution got kicked off, been about private employers within our jurisdiction. But this is already existing policy at the city and at Travis county.

>> Mayor Adler: Okay. Anything else on this? We'll take a vote. Those in favor of the amendment, please raise your hand. Those --

>> Houston: I'm sorry, could you say the amendment again please?

>> Mayor Adler: The amendment is to strike the employer definition of a corporation wholly owned by the government of the United States, subsection two under section F on page 2 of 7. The amendment is to strike 2. Those in favor of the amendment, please raise your hand. Zimmerman, troxclair.

>> Houston: I didn't hear the discussion of why it was in there.

>> Mayor Adler: Okay. There's an

[9:58:11 PM]

>> Mayor Adler: Okay. There's an abstention. Opposed please raise your hand. A vote on motion as amended,.

>> For all three?

>> Houston: I have something else I want to say.

>> Mayor Adler: No, no please. Please, please, please.

>> Houston: So as I said earlier, this is a very emotional issue, and this issue does touch my heart because of the number of people in district 1 who have criminal histories. And they need a chance. They just don't need one chance. Sometimes they need two and three chances to get a job and earn a living after serving their time. This issue deals with the lives of people and those who love them, and employment and education is the key to get people out of poverty and out of criminal behavior. Employment strengthens the family relationships. Employment increases an individual's self-esteem and self-worth, and individuals take pride in their accomplishments and give back to their communities. I see the hopelessness in the faces of my individuals in my community had not given the benefit of a second chance because of a box on an application form that they must check. And so I wholeheartedly support the removal of the criminal history question on job applications, and that allows people to look at the person's skill set, their expertise, their experience, to determine if they meet the minimum criteria, and then contact them later for a face-to-face interview. I want, more than anything, to give individuals an opportunity to get past that first hurdle. That's their record. And so over this past year, councilmember Casar, members of this council, and Austin interfaith, members of the business community and other stakeholders and staff have focused on this issue, and so I hope that tonight, with some of the amendments that have been passed, that we will be able to support this resolution and always remember that, as whoever Alexander, who is a constituent in district 1 and small business owner says all the time, sometimes it's better to get people with a carrot than a stick, so I'm hoping with change in the civil penalties from 100 to, say, up to \$500, small businesses will see this as a carrot, and whoever has offered to volunteer to be an ambassador to go with people and help them understand the process so it's not fearful for them.

[10:00:58 PM]

So on his behalf, I'm supporting this resolution.

[Applause]

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: Councilmember Casar, I appreciate the efforts that you have made over the past several months to try to craft something that is legal and workable, and I heard you just say that you want to build as broad of a consensus as possible in the community, but it seems like there's still one major issue that could earn you the support of a lot of the businesses that were here today, and that is moving background check from after the conditional offer is made to after the first interview, which I think is still in the spirit of the original purpose and direction of ban the box and fair chance hiring, making sure that ex vendors

have the opportunity to get their foot in the door and to meet face-to-face and to present their qualifications and make their case for why they're the best person for the job. But I do think it would address a lot of the businesses' concerns about the time and effort that waiting until a conditional offer is made would take. Are you amenable to that amendment?

>> Casar: I'm amenable to, while over a dozen major changes, to make this work, but I believe that this ordinance as it stands is a strong balance and that it gives power to everyday people while preserving the right of a background check to be run. And so I would call the question on the ordinance as it stands.

[Applause]

>> Mayor Adler: With no further debate, we'll take a vote. Those in favor of the -- of the ordinance on third reading, closing the public hearing, please raise your hand.

[10:03:07 PM]

Those opposed? It's the main motion on all three readings. Those in favor, please raise your hand. Those opposed? Voting no, troxclair and Zimmerman, the others voting aye, Gallo off the dais. We -- it passes. And that's all of our business today.

[Applause] This council stands adjourned.