

City Council Regular Meeting Transcript – 5/12/2016

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[10:13:54 AM]

>> Mayor Adler: Ms. Kitchen, I want to recognize you.

>> Kitchen: Okay. We have an announcement to make, and I think we have a visual to put up on our overhead. Okay. I'm very proud and pleased to announce, along with my colleagues, my fellow councilmembers and the mayor, that the city of Austin is proud to announce a partnership with the United Way of greater Austin's navigation center to establish a driver hotline. You can see that on the overhead. We're establishing a driver hotline to serve drivers who have been negatively impacted by Uber and Lyft's decision to cease operating in Austin. Now, we're seeing tremendous opportunity from other tncs, and I have no doubt there will be more opportunities for drivers very soon. So what we're doing, and until that time, we want to make it easy for drivers to connect to these additional opportunities, and also to connect with the organizations in our community that can help them, should they have other financial or social needs at this time as they work towards transitioning to connecting to other driver opportunities or other job employment opportunities. I want to thank the united Way and my staff and Jason Stanford on the mayor's staff put this together in a matter of two days, and I want to thank them for working so quickly on this. And I want to say that we are committed as a city to helping to mitigate the impact on the drivers that have been caused by the choice of Uber and Lyft to leave Austin. So we will be sending this out everywhere, and we ask for the community's help in

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getting this information out to drivers so that we can let them know that there is this dedicated resource, it's a dedicated hotline, a driver hotline, with a phone call that they can call, that they will receive a person who will answer it and help them with their needs. [Applause]

>> Mayor Adler: Mayor pro tem, I know you were involved in this, do you want to say anything?

>> Tovo: I just want to -- I'll just thank councilmember kitchen for leadership on this and the other partners who were involved. Several of us, including councilmember kitchen, are also bringing forward a resolution next week that also speaks to asking our transportation staff to report back on whether there are any other ways that we can be assisting those smaller ride companies that are trying to scale up to meet the

demand that has been created by Uber and Lyft choosing not to operate within the city of Austin. But I will say our transportation staff has already -- is already working closely with those companies, and as I understand, maybe there's some in here who can speak to that, some of the specifics, but they are planning to of a driver fair, as I understand, early next week, to assist drivers who are applying to those smaller ride-hailing firms. So thank you to our transportation staff already moving forward in that direction.

>> Mayor Adler: Again, this wasn't something put up on our agenda so we're not going to call it up as an agenda item to be discussed. I'm going to move this on.

>> Kitchen: Let me say one other thing, we also worked very closely with councilmember Garza's office and councilmember Gallo so I don't know if they want to say anything.

>> Mayor Adler: The problem, when we start talking, we're going to let everybody start talking. It's not on our agenda to be discussed.

>> Kitchen: Okay.

>> Mayor Adler: You asked to make a quick announcement. I let you make a quick announcement. There's another announcement I have. Recircled game script I'm going to now read because this is important.

[10:17:56 AM]

The recycled games were a four-month long competition among the 10 council district to help austinites overcome barriers to recycling, and I want to congratulate district 8 and councilmember troxclair for their outstanding performance in winning the most recycling overall category. District 8 will use the award, I understand, toward a beautification project at the circle C metropolitan park. Congratulations. Also, congratulations as well to district 6 and councilmember Zimmerman for their exceptional performance in winning the most improved category. District 6 increased recycling 44% since the beginning of the games. District 6 is going to use their award toward beautification project to the spicewood springs library, and I would just say that, in addition to these victors, all austinites have one, as recycling is up 7% citywidesince the recycling games began. This is a great initiative, great idea by staff manager, in having staff work with council and letting council to help elevate these issues publicly I think is a great partnership, and it worked really well here.

>> Mayor, if I mean, in addition to those acknowledgments, I want to be more specific than that and acknowledge director bob gedert and his team for the creativity in coming up with -- coming up with this challenge that seemingly has worked out so well. By the way, I live in district 8. Yeah. So I feel fortunate, given your -- given your success. But anyway, bob and your team, congratulations on the job well done.

[10:20:00 AM]

Thank you.

>> Mayor Adler: All right. That said, then I'm going to convene our meeting. Today is Thursday, may 12th, 2016. We are in the city council chambers. The time is 10:18. We're going to begin our --begin our meeting. Let's look at the consent agenda, which today goes through item number 21. Is Joe Lopez here? Okay. So we have a speaker speaking on item number 3, and let's keep going. And on item number 4 and on item number 5, and a speaker speaking on item number 6. Items number -- let me finish here, taking a look. And on item number 7, item number 13 is

pulled. Okay. Item number 20 is pulled by speakers. We also have items 2, 3, 4, and 5 pulled by

[10:22:01 AM]

Mr. Zimmerman. Also, items 9, pulled by Mr. Zimmerman, also items 13 and 14, pulled by Mr. Zimmerman. We've had some items in the past that people have pulled when all they wanted to do was to make a comment, so I'm going to now give an opportunity, rather than pulling items where that might apply, does anybody have a comment to make on any of the consent items? Ms. Kitchen, do you have a comment on number 19?

>> Kitchen: Yes. I have a comment on number 19.

>> Mayor Adler: Okay.

>> Kitchen: I wanted to just make the statement and provide the assurance that the intention of this particular item is not to cause any difficulties or create problems or have any kind of negative impact on senior individuals or elderly individuals or people with disabilities. What this item is for is to bring information back to us, and I am committed, as are other councilmembers, to be sure that whatever action we might take with regard to how we handle taxes between us and the school district, that whatever action we take will not negatively impact people with disabilities or the elderly, and I think it's important just to make that statement and make it clear to folks that that is my intention. I know it's the intention of the other councilmembers.

>> Mayor Adler: And as the -- as a supporter and, I guess, author of the tax swap issue, there are several challenges associated with that, that hopefully we can analyze and see if there's a constructive way to workthrough them. One is the one you've

[10:24:02 AM]

identified, where property for tax purposes is valued, for ad valorem tax purposes, valued differently in the school district and for the city as concerns certain property groups, and one of the things that we've asked the manager to do in that resolution is to be sensitive to that and identify that and help us understand what that disproportionate impact might be, as well as to suggest ways that the city, as part of an overall way, approach that; we might be able to mitigate or address those disparities to see if there's a way for us to do that and give us options if there are options, so I concur with your sentiment as well. Yes, councilmember Gallo.

>> Gallo: Thank you. District 10 has a lot of school districts in district 10 and some of those areas have expressed concerns to us about the impact to other school districts, not just aisd. And so I would offer a friendly amendment if it is acceptable to you so that it can stay on consent, but we looked to try to find any reference to other school districts in the resolution and did not find that, so we would offer, under be it resolved, under the first be it resolved, that the very last sentence, which ends with "On those over 65 or disabled," include the clause "And considers the impact to Austin residents and other ISDs," so that we do have the other school districts as part of the conversation.

>> Mayor Adler: Could I suggest as a friendly substitute for that, just because it's in written form and I think accomplishes your intent, to have the words that says areas for implementation should also consider the effect on the other school districts that are within the city and measures for equalizing any desperate impact on taxpayers who are within those districts?

>> Gallo: That's perfect. Thank you.

>> Mayor Adler: As just handed out. Yes, councilmember tovo. Mayor pro tem, I'm sorry.

[10:26:04 AM]

>> Tovo: Yeah. I appreciate the leadership, mayor Adler, you've shown on this issue. I think this is very responsive to some of the communities' interest in seeing the school district -- the city of Austin work more closely together with the school districts, and this goes back to the potential school closures of elementaries enrollment 2000s. So I think this is very in keeping with what we heard from the community at that time. As a community member, I remember lots of interest from austinites and seeing the city of Austin really step up and be a partner with the school district, in as many ways as are appropriate. And so this is just one -- one additional tool that we're considering that is, I think, very consistent with previous council actions. And, again, I think it began really with a community interest as expressed both to the city council and to the school district, to see them working more closely together.

>> Mayor Adler: Mayor pro tem, I appreciate the work that has been done in this city leading up to this and agree with you, this is just in dogged pursuit of that goal that has been with us for a while. Yes, Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor, I may be the only one who disagrees with the amendment, in which case I'd just like to see my vote changed from for to against on item 19.

>> Mayor Adler: Okay. Without objection, the amendment will be added to item number 19. That gets us.

>> Gallo: Mayor, can I just make one other comment, please?

>> Mayor Adler: Please.

>> Gallo: I think it's really important. My support of this is support of a very robust stakeholder process that will occur, and we've heard from a lot of the community

[10:28:05 AM]

who was concerned at the speed at which this discussion was going, so I think it's important to get the message out that I am in support of this, but only because it's going to include a very robust stakeholder with all of the -- discussing all of the potential ramifications to the different parties that might be impacted.

>> Mayor Adler: And to that end, because I think it's important to note, and I think you're correct, there have been some concerns that have been raised, some challenges that have been identified. The item here, number 19, which asks the manager to further explore this option and to work with stakeholders, puts us on a timing which will not have the tax swap happening this year, as part of this upcoming budget or as part of the school district's budget being entered into this summer. It also -- but it does have us hopefully trying to work through some of these challenges prior to the legislative session so that we can hand the concept off to our alternative delegation and they can talk to folks up at the legislature as well, hopefully coming back this time, or earlier than this next year, if it looks like it's a viable solution so that it can be implemented, consistent with whatever it is that we -- that we learn. So thank you, councilmember Gallo, for pointing that out as well. All right. The changes and

corrections as we go through this, item number so is being postponed to may 19th -- number 10 postponed to may 19th, 2016, so the consent agenda would be approval of that postponement. Item 18, councilmember pool should be listed as a sponsor. I would point out that item number 47 at its 2 o'clock time certain, there's going to be a motion to postpone that item to June 16th, just to let people know that.

[10:30:09 AM]

June 16th. Yes?

>> Kitchen: I'm sober, which number is that?

>> Mayor Adler: 47.

>> Kitchen: The one posted for time certain at 2:00?

>> Mayor Adler: 2:00. This is briefing on --

>> Kitchen: There's no action today so it's suggested action is taken on what day?

>> Mayor Adler: The briefing is going to be postponed to June 16th.

>> Kitchen: Okay. I think we had the public understanding it was today, but -- okay. So there's no briefing today, it won't come up today at all. Okay. Thank you.

>> Mayor Adler: Okay. The record should reflect that Mr. Zimmerman is -- should be shown as against on item 6, 7, and 8. Against item 12, abstaining on item 18, against item 19, abstaining on -- against, sorry, against item 21.

>> Zimmerman: And abstaining from item 20.

>> Mayor Adler: That's been pulled by speakers --

>> Zimmerman: I'm sorry, you're right.

>> Mayor Adler: That's okay. I'm going to now recognize some of the public to speak on the consent agenda. The first speaker would be Mr. Peña, Gus Peña.

>> Gallo: Mayor, as he's coming up, did you mention that 22 is pulled?

>> Mayor Adler: That is not on the consent agenda. We only go through item 21.

>> Gallo: Thank you. No problem. You've signed up on multiple items, and you can speak on them. I think you signed up on items 3, 4, and 5. Also, on item 7.

[10:32:19 AM]

>> Number 20.

>> Mayor Adler: I'm working my way through it.

>> All right.

>> Mayor Adler: And on item number 20, but 20 has been pulled, so there will be speaking -- you can speak when that item gets pulled. You don't need to speak on it now.

>> I won't fall asleep on that. Good morning mayor, councilmembers, Mr. City manager, my name is Gus Peña, I am president for veterans for progress. I told you last time, it's more than 6,955 members, male and female veterans, we don't distinguish males versus female, veterans, period. It's growing because there are a lot of needs for the veterans. Let me speak to the issue on items 3, 4, and 5. Mr. Mayor and councilmembers, I'm a former IRS investigator. It's here for you if you want to view it. I don't care. How will we -- they're asking me, ask the city council and the mayor about who is overseeing, who is supervising this project. I remember we were -- will Wynn was mayor at that time. We started dialogue on this issue and I said, oh, my god, just as long as there are no cost overruns. I think the public is sick and tired of not knowing how and why this is a fiasco regarding the Waller Creek issue. I'm going to

leave it like that because I tend to get anger management issues and I keep it under control. I think my wife says that, and it's true, but how can we justify that to the taxpayers, the cost overruns? I mean, I'm going to sound a little bit like councilmember Zimmerman there, I hope not, but anyway -- I mean I meant it as respectful. You've been a good guy. But the issue is cost overruns, mayor and council. I don't know. We can't do that, you know, that's not acceptable. Okay. Let me go further on number 6 and 7.

>> Mayor Adler: Mr. Peña, because items 3, 4, 5 were

[10:34:20 AM]

pulled, you should have been entitled to three minutes just to speak on those by itself, so I'm going to give you now a full three minutes from this point forward for the items that have not been pulled that you're speaking on, if you want to take it.

>> Well, I know there's a reason why I supported you, mayor, because you're a good guy. Thank you very much.

>> Mayor Adler: Yeah.

>> Items 6 and 7 is regarding Austin Travis county mental health/mental retardation. We have a lot of not only kids or youth, other people suffering from mental health issues. Any -- this, I won't have a problem, any increase for the funding at Austin Travis county mental health and mental retardation center for services is -- to me, we will support it. We have a lot of veterans that have anger management issues, and we appreciate that very much, mayor. And you did say number 20; right?

>> Mayor Adler: That one has been pulled. 20 has been pulled so you can speak to that one later as well.

>> Okay. Thank you. I just want to say this, mayor and councilmembers. I know I've been tough on y'all. I ran for council on '96 and '97. But the issue is this, accountability for the taxpayers, please. And I will remain respectful, and I want to say this in public, veterans for progress, vfws, American legioned other organizations, Mr. Ott, we strongly support you. We strongly support you and we're at thousands. I'm going to leave it at that. Thank you very much for yourstewardship, and have a good day.

>> Mayor Adler: Thank you, sir. Okay. That's the only speaker I think we have speaking on the consent agenda. Is that what you have as well? Okay. Our consent agenda are items 1 through 21, we have pulled 2, 3, 4, 5, 9, 13, 14, and 20. Item number 10 is a postponement to may 19th. Item number 19 is as was

[10:36:25 AM]

amended. Any further discussion on the consent agenda?

>> We don't have a speaker for item number 6? I thought you had said earlier that we did.

>> Mayor Adler: Oh, you're right, we do. Is Joel Mcnew here?

>> Yes.

>> Mayor Adler: Thank you.

>> Good morning. Thank you for allowing me to speak. My name is Joelle Mcnew. I'm a mother of a university of Texas student and a member of safe horns. Safe horns is a group solely devoted to the safety of university of Texas students, faculty, and visitors on the campus and in the areas in which they live and work, west campus. We are concerned with the criminal behavior andspecific crime that impacts our students is

committed by transient offenders. We are not experts in mental health and substance abuse fields, but we're working to educate ourselves. We know these issues impact most criminal repeat offenders. We see great value in a hot team, which APD is working on creating. We realize that they're starting downtown. It's very important to us that this is also located in west campus. We believe that with the hot team and APD's store front site, the team would be a great asset in determining who would benefit most from the services, and who is truly most interested in improving their circumstances. These judgments can be best made when the hot team and other APD officers build relationships with the homeless community and get to know them as individuals. This will enable them to work in conjunction with dacc to let me who will embrace and benefit treatment. Recently, two of our safe form members had opportunity

[10:38:28 AM]

to meet with judge Coffey. He was generous with his time and gave great insight into how dacc operates in Austin. Unfortunately, they have identified 440 habitual criminal transients, and the habitual label is created only once the individual has racked up over 20 criminal offenses and has had an active one in the last year. Of these 440, there are case managers actively working with 74 habitual offenders to improve their circumstances. Many of the other habitual cts do not even show up wore court or complete their court-ordered community service. Given our goal of decreasing crime and improving safety and security in west campus, we are primarily concerned with getting more resources devoted to deterring aggressive and threatening conduct. While we value the effort of the community court to rehabilitate offenders, we see the bigger funding need as increased law enforcement to create an environment in west campus that is not tolerant of or comfortable for criminals. If the worst offenders can be taken off the streets, are encouraged to move on from Austin, it will be far easier to provide services to those homeless individuals who really want and need to change their life. Thank you.

>> Mayor Adler: Thank you. Mayor pro tem.

>> Tovo: Ms. Mcnew, thank you for being here today and the work. I want to make sure you're aware the homeless outreach team will just be operating as a pilot, initially, but it has defined its geographic boundaries as downtown and up to 26th street, to include the west campus area. So that, you know, it is just really a preliminary plan at this point, but that it will -- it will incorporate west campus.

>> Thank you.

>> Tovo: And as you may notice, number 18 on today's agenda, which I hope we're about to pass on consent, relates to the homelessness outreach team and our continued efforts to move forward with that.

[10:40:29 AM]

But it's my expectation that it will, just based on what APD has said, that that team will be on the ground again in a pilot fashion as of sometime in June.

>> And we're grateful for that. It's a very positive start for this process.

>> Tovo: I agree.

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

>> Zimmerman: Thank you, Mr. Mayor. Thank you for being here. I just have a short comment on this. I think the problem could be greatly diminished just by enforcing

existing trespassing laws, if we were just to do that, it would make a huge difference on this problem.

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

>> Thank you.

>> Mayor Adler: Those are all the speakers we have is there a motion to approve the consent agenda? Mr. Zimmerman moves. Is there a second? Ms. Houston. Any discussion on the consent agenda? Ms. Troxclair?

>> Troxclair: I just want to be shown abstaining from item 12, 17, and shown voting no on item number 19. And I do -- I was trying not to pull them, but I do have a couple of questions about 6 and 7. I'll try to be quick, but can I pull those?

>> Mayor Adler: Which one do you want to pull?

>> Troxclair: 6 and 7.

>> Mayor Adler: Okay. So 6 and 7 are also pulled.

>> Troxclair: Had thank you.

>> Mayor Adler: The consent agenda then consists of -- let's see here -- wait a second. Apparently we now have speakers on item number 12. I have two speakers so item 12 has been pulled. Is Melissa from the time Rick here? Hold on. Hold on. Sorry. And is Henry Jones here? Item 12 is being pulled as well. So we're going to pull those off the consent approval agenda and handle it independently. So the items on the consent agenda are now just 1, 8, 10

[10:42:32 AM]

is postponed to may 19th as part of this agenda, item 11, and then 15, 16, 17, 18, 19, and 21. Those in favor of the consent agenda with notes made, please raise your hand. Those opposed? It's unanimous on the dais. Everyone is here. Okay. That then gets us to the pulled items on the agenda. Are there -- while we're here, are there consent items on zoning that we could also cover and let people leave? Let's call up the consent zoning agenda.

>> Kitchen: Mr. Mayor, I have a comment on one of the consent items on zoning, and that's number 36. I don't want to take it off consent, I just have a comment.

>> Mayor Adler: Okay. Consent agenda on zoning.

>> Greg Guernsey, planning and zoning. I'll walk through the items offered for consent, 23 case mpa 201500.01, this is in the university hills Windsor park combined neighborhood planning area for the property located at 4717 --

>> Mayor Adler: Hold on one second. Ms. Houston, he's now addressing the boys and girls club --

>> Houston: Thank you. I want that on consent.

>> Mayor Adler: Okay. That's going to be pulled.

>> Item number 25 is a discussion item. Item number 26 I believe I can offer for consent now. Case ca 142-01-2063, sun chase planned unit development at (152)011-5810, and 16070 pees lane. The staff will offer this for second reading only. There's an issue related to

[10:44:32 AM]

the preliminary life, preliminary plan life and the reclaim water that we would be working on prior to third reading, and then I understand councilmember Garza would like to make a comment on this, and Richardsubtle, the agent, could offer, I guess,

either a response or comment, and this could remain on the consent agenda for second reading only.

>> Mayor Adler: Okay. Councilmember Garza?

>> Garza: Yeah. I guess I'll just reiterate the comments I made at work session that I think -- when we do these puds, they have to be superior, they have to offer some kind of additional benefit for austinities or future austinities because this is outside the city limits. I have been pushing hard to get as much affordable units, permanently affordable units in these puds because, you know, we're losing working families, and it's a big concern of mine. So my understanding is, the developer's representative, we've been able to move from 2% of the permanent affordability lots to 3%, and I'm very glad we're going in the right direction. I hope -- I hope moving into third reading, we can get closer to 5%. But I do believe that at least 3% of permanent lots is better than 10%, just on first sale. And I also do have concerns about the surrounding infrastructure and, you know, at some point this area will be annexed by the city, and we're -- we would be annexing inferior infrastructure because a lot of these roads cannot -- are not really able to support this much development. So I'm grateful that we're moving towards more permanent affordable lots, and I hope -- I hope by third reading we can get closer to 5. So thank you for everyone who's worked on it so far.

>> Thank you, mayor and council. Just so the rest of the council understands what we're doing, because we had a previous case that maybe wasn't as smooth as it could

[10:46:33 AM]

have been, but what we're talking about now, the mud consent agreement talked about 10% of the homes would be hold to those making -- or would be priced, it's a very important distinction, would be priced for those making 80% mfi, first-time sale only, and it doesn't necessarily mean that it would get to the right folks, nor did it mean that it would be permanently affordable. The program we're talking about now is -- there are no fee waivers. It's not a smart housing deal. What we've done is, we've completely changed the approach that was in the mud. We would completely supplant the mud agreement with this agreement that we would donate 3% of the single-family lots in the development to whoever you choose, the housing authority, whatever. Right now, our best guess is, that's 75 lots. 75 lots would be owned, free and clear, by the city, and then from there, we would reach an agreement on how the homes get built. But it's a different approach. It's not a fee waiver. And it's a different approach from the mud consent agreement. It's -- the mud consent agreement goes away, and we have a 3% donation. And I can tell you that that 3% donation, the dollar figures are almost exactly what the mud consent agreement agreement was. So we're not getting a better deal, it's just a different scenario, but you actually own lots under this deal.

>> Mayor Adler: Thank you. Mayor pro tem.

>> Tovo: I know this is not on the discussion, so I won't belabor the point, but I did see in the backup that the appraisal was done. I was trying to determine who had appraised the value of the lots. Was that your developer, or is that the city's information?

>> It's -- those are our Numbers because we know what builders are paying for lots.

>> Tovo: Okay. I'll connect with staff after. Thanks very much. Mr. Zimmerma N.

>> Zimmerman: Thank you, Mr. Mayor. I just have a quick comment on this everybody is happy that the city has stopped, you know, ethnic and Rachel and racial

[10:48:40 AM]

segregation that we used to do. What's going to happen is you're going to have a community where it's economically segregated between people living there who own the dirt under their houses and the people who do not own the dirt under their houses. And that's not a new idea. We do that in mobile home parks. Right? Buy the mobile home and you rent the dirt that's underneath it, and you connect your utilities and what have you. And the problem being that over the decades, you pay off your house, a large part of the value that you build is the land that the land sits on. So I can't support these kind of plans that are institutionalized economic segregation. It's a creative idea, but I think it has a bad, unintended sequence. So I'd like to be shown as voting no on this item for that reason.

>> Mayor Adler: So noted. Understand I'm going to be voting for this, for, I guess, the reciprocal reason of that. I really think that this promotes mixed income communities. In fact, it's a way to fight back against economic segregation, and all social studies report that everybody in the community is better when there's mixed income folks that are living together in a community. And if you go out to Mueller right now, you see this same kind of thing happening. And no one knows -- you know, you drive through, and you can't tell which is -- which home is which home, and importantly, the children growing up in those homes and playing with each other can't tell which home is which home. So I'm going to vote for this for kind of the reciprocal, or whatever, reason. Different interpretation. Anything else? Any other comments? I mean so -- yes.

>> Renteria: I'm also going to support this. You know, my daughter bought a -- qualified for an 80% mfi years back on a condo, and she doesn't own the

[10:50:41 AM]

land, so when she decides to sell her condo, she's not taking it with her. So ...

>> Mayor Adler: Okay. Further discussion? I mean other items on the consent agenda?

>> Zimmerman: Thank you. I'll continue. Thank you, mayor.

>> Item 27, case mna 2015, this case has been Braun, no action required. That's item 27. Item 28, case c14-2015-0109. Again, 901 Spence street. This case has been withdrawn, no action is required. Item number 29 is case npa-2015-0005.04 for various addresses on poncho, bastrop highway, and I understand from the work session, council's desire is to postpone this to June 16th. The accompanying zoning case is item number 30, case c14-2015-0104, for properties on bastrop highway, again on poncho street. This is again a postponement by council of this item to June 16th. Item 31, case c14-2015-0062, for the property located at 2900, 3000, and 3024 U.S. Highway 333 south, zoning change to limited industrial plan area, li-pda mp, for tract 1. And to limited industrial services planned development area, li-pda zoning for tract 2. The planning recommendation was to grant limited industrial services LI Padilla MM combined district zoning for tracts 1 and 2. This is ready for consent approval on all three readings. That's item 31.

[10:52:42 AM]

Item number 31, case c14-2015-0119, for properties on shoal creek boulevard. Staff is requesting a postponement of this item to August 11th agenda. Item number 334, case c14-2015-0135 at 9015 capital drive, this was a zoning change request to commercial neighborhood plan. The planning commission's recommendation was to grant general office conditional overlay, go-co-np zoning. The staff is understanding the applicant and the neighborhoods have agreed to a more restrictive zoning with. What the commission has recommended is a small lot single family, or ant district zoning. With that we could offer this as a consent item for this very much restricted zoning from what it was originally recommended -- requested and recommended by staff and the commission to the sf-4a mp designed family zoning for first reading only.

>> Casar: Mayor, I'd like to just take a quick second to thank the pastor of the church along with his congregation and the residents of capitol drive for finding this middle ground place. I think this was coming to us likely as a pretty contested case on either side, but because of the creativity of the residents, the pastor, and also the help from our city staff, we were able to work this one out. So this thanks to them.

>> And again, that's only on item 33's first reading only of. On that item. Item 4, c14-2015-0161, property located at 11900 and 11902 north Lamar boulevard. The zone change request to general office or go

[10:54:43 AM]

district zoning. The zoning and planning commission did recommend the go Co combined district zoning. This is ready for consent approval on all three readings. 35, c14-2015-0162, property located at 1501 airport commerce drive. This is a zoning change request to general commercial services, conditional overlay, neighborhood plan cs-co-np kind zoning. The recommendation was to grant the cs-co-np, this is ready for approval on all three readings. Item 36, case c14-2015-0167, at 4006 and 4100 banister lane. This is a zoning change request to multifamily residence, conditional overlay or mf 1 Co combined for tract 2, medium density conditional overlay O conditional be zoning for tract 2. Planning commission's recommendation was to grant the mf-1 district zoning for tract 1 and mf-3 Co district zoning for tract 2, and this is ready for consent approval on three readings. I believe councilmember kitchen had a comment?

>> Mayor Adler: Yes. Councilmember kitchen, you want to say something?

>> Kitchen: I just wanted to thank south Lamar -- just wanted to thank the south Lamar neighborhood association and the Gossett Jones homes. They worked closely together to come to an agreement. And the slna, if you all may recall, they worked -- they had concerns about the Thornton road issue, and that's an area that has been -- seen a lot of development, and they have been working very closely, and they wanted to thank the council for work in the past, but they also wanted to say that majority of their zoning cases do end as this one has, with an amicable negotiated agreement. So, in fact, on this particular tract of land, they've agreed to two

[10:56:44 AM]

consecutive upzonings, because they've been able to work with a very willing applicant to grant conditional overlay concessions to accommodate the neighborhood

concerns. So I just wanted to recognize and thank both the neighborhood association and Gossett Jones homes for working together in this neighborhood that's seen a whole lot of development, but to work together on things that work for both the developer and the neighborhood.

>> Mayor Adler: Thank you.

>> I'll continue. Item number 37, this is case c14 20160001, at the 10000 rocking horse road. This is zoning change request to huh-uh district zoning. Planning commission's recommendation was to grant the huh-uh ever ever no district zoning. Item 38, c14 20160009, appropriate located 13681 north U.S. Highway 1834. This is to a zoning change for community commercial or gr district zoning. The zoning and planning commission's recommendation was grant to gr district zoning. This is ready for approval on all three readings. 39, property located at 211 canyon ridge drive. The applicant has requested a postponement of this case to your June 16th agenda, so postponement on 39 to June 16th. Item 40 is case c14 20160 on 15, property located 8219 Burleson road. This is a zoning change request to limited industrial services or LI district zoning. The zoning and planning commission's recommendation was to grant limited industrial service conditional overlay, or li-co combined with conditions, this is ready for approval on first reading only. Item 41, c14 20160018, property located at 710

[10:58:45 AM]

Augusta avenue. Wave request for postponement of this item to your June 16th agenda. Item number 42 is case c14 20160026, for the property located at 5411 east William cannon drive and 6909 south pleasant valley road. This is zoning change request to general commercial services, conditional overlay or cs Co combined district zoning. The zoning and platting commission did recommend the cs Co zoning with conditions, and this is ready for consent approval on first reading only. That's item number 42. Item number 43, case c14 20160027, at 2110 south Lamar. This will be a discussion item. We have citizens that have signed up that would like to address you regarding that item. Item number 44 is case c14, 85027, this is at 2102 Rio grande street. I understand we have a councilmember that would like to address this case so I will not offer --

>> Mayor Adler: Let me back up for just a second. What was -- 42 was first reading only.

>> 42 first reading only.

>> Mayor Adler: 43 is being pulled by speakers.

>> That's right. 44, I understand a councilmember would like to address this particular item.

>> Mayor Adler: So we're pulling 44? Is that sun who wants to address that, leave it on the consent, or address 44 and pull it off cooling you're consent.

>> Tovo: I'm sorry, I was thinking it was a different one. I think I would like to pull that. My concern was I thought we had some speakers but let me look at it. Let's pull it for now.

>> And mayor and council, item 45, c14-03-0116.03 for the property at 3101 metlink

[11:00:46 AM]

drive. This is a zoning change to limited industrial services planned development area, combined district zoning to change condition of the zoning. The planning

commission recommended the lipda-np, the change of condition zoning, ready for consent on all three readings.

>> Mayor Adler: Rodney Bennett is here in favor of item 37 but not wishing to speak. I see that the consent agenda as you just laid it out for us includes items 26, 27, 28, 29, 30, 31 and 32. 35, 36, 37, 38.

>> Mayor, 33 I think we can offer still as consent, but only for first reading for the alternate recommendation. Sf-4 a and P zoning. That was 33.

>> Mayor Adler: 33. You've read that into the record?

>> I've read that into the record.

>> Mayor Adler: So continuing on with the consent agenda, it would be 33, 35, 36, 37, 38, 39, 40, 41, 41, 42, and 45.

>> Right. And I think --

>> Mayor Adler: Is that correct?

>> 44 can also be offered as consent.

>> Mayor Adler: I don't think you read that into the record.

>> I'll read it again. C14-161, this is a zoning change request to G.O. District zoning. The zoning and platting commission recommended to grant general office conditional overlay combined district zoning and this is ready for consent approval on

[11:02:46 AM]

all three readings.

>> Mayor Adler: So on the consent agenda, which is items 22 through 45, they are all ready for a vote except for the following which I see as being pulled. Numbers 23, 24 and 25 -- I'm sorry. The zoning agenda is 23 through 45. The ones I see as being pulled are 23, 24, 25 and 43 and 44. Is that correct? Okay. We have -- is there a motion to approve this consent? Mr. Zimmerman. Is there a second? Ms. Kitchen. We have some speakers wanting to speak on this consent agenda. To speak on item number 29 and 30 I have David King. Mr. King, do you want to speak on these items? No, 29 --

>> 29 and 30 are postponements by council to June 16th.

>> [Inaudible]

>> Mayor Adler: Okay. Then those were the only speakers we had on the consent agenda. It's been moved and seconded. Those in favor of approving consent agenda please raise your hand.

>> Troxclair: Just quickly I want to be shown abstaining from item 26.

>> Mayor Adler: Ms. Troxclair abstaining on item 26. Those in favor please raise your hand? Those opposed? Unanimous on the dais with notations and comments made. Thank you, Greg.

[11:04:47 AM]

Let's hit some of these items that have been pulled today. Items 2 through 5. Is there a motion to approve items 2 through 5? Mayor pro tem, seconded by Ms. Pool. Mr. Zimmerman, you pulled these. I'm sorry, do you want to speak first?

>> Tovo: Mayor, that's fine, I just wanted to say there's other items related to the waller creek funding items. They are 2 through 5, 9, 13 and 14.

>> I'm happy moving approval of all of those items Z. They are bundled together. I would like to consider them together.

>> Mayor Adler: Mayor pro tem moves adoption of 2, 3, 4, 5, 9 and 13 and 14. Seconded by Ms. Pool. Mr. Zimmerman, do you want to speak to these?

>> Zimmerman: I would. We had a conversation on these in the work session. I did remember that we had a similar conversation about this in June of last year. I went back and looked at our notes and I asked for the executive session recording to refresh my memory on what we were told but the executive session recording had nothing on the \$6.2 million council approved so I'm going to have to recall out of memory -- the reason I pulled these is I'm still trying to get confirmation if this is going to be the end of the overages for the waller creek tunnel. I was not satisfied in June of last year that the 6.2 million that we were going to spend was going to be the last of the expenditures and that's why I either voted no or

[11:06:47 AM]

abstained from the items. My request here is the same as it was a year ago, if we can get some confirmation that this will -- that this last round, 7.5 million -- the money that we're approving is actually in items 13 and 14 and it's 7.5 million. With I believe 500,000 of that for further contingency. So the money we're approving is 7.5 million in addition to the 6.2 million we approved back in June. And I would like to ask a question of staff. Did we spend all of the 6.2 million that we approved in June of last year? So that's my technical question.

>> Mayor Adler: Sir.

>> Good morning, Howard Lazarus, public works director. In response to councilmember Zimmerman's question, is additional authorization that was provided last June was used for two primary purposes. The first was to pay for the reconstruction of the inlet facility which was the subject of the error concerning the capital view corridor. About \$2.8 million of that was also used under a reservation of rights agreement with Oscar Renda to partially settle a delay claim that was necessary to relieve really the contractor's cash flow issues because they had been on site for an extended period of time and it was necessary to keep the momentum of the project going forward.

>> Zimmerman: So is that a yes, the 6.2 million was spent?

>> That's a yes.

>> Zimmerman: Thank you. And so let me underscore the fact that as you've said this is a very complicated engineering project. I've been involved professionally with some large complex contracts and what we see here is not atypical. We see this in private industry with disputes between, you know, the

[11:08:48 AM]

corporations that hire contractors and disagreements. It's very difficult for something of this complexity that's 150 million for there to be lawsuits that may play out for months or years, mediated settlements that can go on for months or years once the project is completed. So I got all that. In my view our taxpayers have to be assured at some point this is the end of the line. We approve this money, we'll get the project done, we'll negotiate or mediate the disputes after the project has been completed. And so it just feels like still I'm not at that point where I have that assurance. So I'm going to have to vote on the 7.5 million the same as I voted on the 6.2 million.

>> Mayor Adler: I understand. Thank you. Any further discussion on this? Ms. Houston. Thank you, Mr. Lazarus. You can sit down.

>> Houston: Thank you, mayor. I inherited this project and so I was going to ask Mr. Lazarus before you asked him to sit down.

>> Mayor Adler: Sorry.

>> Houston: And by the way, I'm going to miss you. I just wanted you to know that.

>> Well, thank you.

>> Houston: What are my options? What do we continue to pay -- pull from peter to pay Paul on this project? Do I have any options?

>> The items that we're asking you to consider, which is the option to say yes or no, will get us to completion of the project. It was our intent initially at the time the additional funding was approved last year was to bring both the technical issues as well as the contractual issues back at the same time so that council could see the pluses and minuses. Unfortunately we haven't been able to do that because of the nature of how those issues have been resolved. Approval of these items will allow us to finish the project. Really as an indirect answer to Mr. Zimmerman, it is our

[11:10:49 AM]

best belief that this funding will get us to completion. As I stated at the work session on Tuesday, it's also our belief and intention that we will recover a significant amount of this funding. So if you were not to approve this, we would have no choice but to stop work and we would be left with a tunnel that was not fully functional and we would not be able to address the completion of the remainder of work which will provide additional amenities for the public.

>> Houston: Help me understand, when you said that it will be paid back eventually, how -- through this tax increment finance zone, how will it be paid back?

>> So what we're really asking for at this point amounts to kind of a bridge loan so that we can get our contractor, primarily Oscar Renda, to finish the work that's at hand. We will have remaining discussions with the design firm and disputes over who is responsible for the additional costs. As I said it's our belief that we have a good case to go forward and recoup some of those costs as a result of designer errors and omissions. That won't occur though until after we have completed construction of the work.

>> Houston: And the time line on completion is?

>> The remaining work on the fourth street inlet and the Waterloo inlet should be finished by the end of this calendar year. The work on the eighth street which is scheduled for completion in may of 2017.

>> Houston: When I drive by the Waterloo inlet, it doesn't look anywhere close to being ready to be completed by the end of this year so --

>> The structural concrete is essentially finished. The work that's being done right now is internal to the building. When I say it will be completed, the work that will allow the tunnel to be placed in service, allow the watershed protection department to occupy the building will be finished by

[11:12:51 AM]

the end of the calendar year. As many of you know, we have a partnership right now with the waller creek conservancy to address other improvements to Waterloo park. The park itself will continue to have work done and it's our intent to transfer the site development permits and other approvals to the conservancy so they can do the work they have to do. So from somebody who passes by, the impression will be that

the work is not finished because there will be work in the park. But from a flood control standpoint, that project will be completed at Waterloo at the end of the year and with the eighth street inlet next year.

>> Houston: Thank you.

>> Mayor Adler: Any further discussion on items 2, 3, 4, 5, 9 and 13 and 14? They've been moved and seconded. Those in favor please raise your hand? Those opposed?

>> Houston: Show me ab takenning.

>> Mayor Adler: Troxclair, Zimmerman voting no. The other eight voting aye, passes. Thank you. And 13 was in that group as well.

>> I registered for number 13.

>> Mayor Adler: Why don't you come on up and talk. I'm sorry I missed that.

>> Tovo: Mayor, I believe that Mr. Peña also registered for 13 as well.

>> Mayor, city councilmembers, I'm Susana Almanza with poder and we have great concerns

[11:14:51 AM]

about additional funding for the waller creek tunnel. As we presented our report on drainage fees, improvement and equity in the city of Austin, we have to talk again about all the flooding that happens in east Austin. We have to talk about the lives that have been lost in east Austin. And the homes that have been damaged due to flooding. And not just in dove springs but throughout Austin, even in Monday Monday top last and out east Austin has not got even its share of capital improvements drainage fees. When we look at where the money is going, in our report we saw 65% of those funds were going to west Austin and only 35% to east Austin. And 38% was going downtown. And that's one of these big projects that are happening right now with the waller street tunnel. And here we continue to say additional funding, additional funding, what happens is that, you know, the drainage funds and capital improvement funds don't look at the criteria of costs. And so when you spend all this money on one particular project, the waller street tunnel and downtown, then you have to ignore the rest of the city and you have to ignore the rest of the city that has the oldest infrastructure and that is east Austin. And so we're not getting our fair share of the funds. And so I ask you to begin to really look at this of how we're now again putting additional funding in the downtown area. And again, how will we make sure that there's equity. We talked about getting an equity office, but we keep doing these things that are not equitable. And so I have -- we have a big concern about this in our community of how we continue to put more and more money and

[11:16:52 AM]

then we use the phrase of there's going to be general amenities to everyone. I can assure you they won't be general amenities to everyone because there's only about five or six owners that own the land around this whole waller creek tunnel. So I don't know any in my community that owns the land right there, and yet here is a mac that's been struggling for all these years is right next to it, has been begging for money and funding and trying to expand, but yet we keep using capital improvement money, drainage fees fund moneys for these types of development. And so I just want to say that we're against continuing to increase more funding for this particular project. Thank you.

>> Mayor Adler: Mr. Peña, did you want to speak on this item 13? I think it might be related to the waller creek testimony you had given previously.

>> Yes. 13, but I didn't know --

>> Mayor Adler: Speak to 13.

>> Yeah, item number 13, I think the prior speaker, Ms. Almanza, stated it very elaborately. I'm a native east austinite and she's right, I grew up 2327 east fifth street in front of what is known as industrial zone area. And we see -- we hear -- not being equitable. What I'm looking at is this, the people are asking me why don't you speak about why there are cost overruns, who is maintaining quality assurance, who is maintaining the project is not going to cost overrun. I just get disgusted. I love my city. I served in the United States

[11:18:53 AM]

Marine Corps to fight another person's country, but yet I'm still fighting here in Austin for the right to be treated equally in our communities also. You know, is there a way we can -- and I'm sick and tired of -- I guess investigations, but to see exactly how this happened and to prevent it. Not to try to prevent it, to prevent it. A lot of people are saying wait a minute, Gus, you talk about equality, all this money being thrown into other projects. And Ms. Almanza is right, we in east Austin don't benefit. I'm a former discrimination complaints investigation for the collateral department of justice. Also I find this disrespectful. I find this to us taxpayers not acceptable. And so she's right, I mean maybe an audit is -- should be conducted. And I heard what the director said, but still I have some -- we have some concerns and I hope they are addressed. Thank you, mayor and councilmembers, Mr. City manager.

>> Mayor Adler: Thank you. Just to confirm, is Joe Lopez here? Okay. So that the record is clear, I'm going to call the vote on all the waller creek item matters which are 2, 3, 4, 5, 9, 13 and 14. I think the mayor pro tem's motion is to approve all those. Correct? And the second from councilmember pool is on all of those. Those in favor of this item --

>> Houston: Go ahead.

>> Casar: I just wanted to make a comment quickly. I do think it's important for us to look at drainage issues in parts of town where people of lower income could get

[11:20:53 AM]

hurtment my understanding of a lot of how we're going to pay for this project is with money that largely, according to the theory, would come only if the project exists because we'll be taking property out offlooding danger and get new tax revenue that would then pay off the money we take out to do the project. That's the theory, but I just want to make it clear that my understanding is not that we are diverting money that could be spent in some of these areas to protect folks from flooding to the tune of tens of millions of dollars to build this project because we're doing it through the tif method.

>> Mayor Adler: Okay, and just by way of clarification, our attorney points out we have successfully voted on all these items except number 13. So now we're going to vote on item number 13 alone. Moved by mayor pro tem, seconded by Ms. Pool. Any further discussion on 13? And the reason I called 13 separately was because there was speakers identified for that that didn't have a chance to speak earlier. Ms. Houston.

>> Houston: I wanted to be real clear because I abstained on 13 and I want to abstain on 14 too. That's the money. I didn't want them all together. That was my concern is if you lump them all together -- well -- that's my concern. So as long as --

>> Mayor Adler: You successfully abstained on item 14. Let the record reflect you support the other item -- that you want to abstain on 13 and 14? We're about to vote on number 13. Your vote is recorded as abstaining on 14. Because we took that vote a moment ago. Miss Gallo.

>> Gallo: I just want to make sure that I'm clear on the funding process for this because it does say funding in the amount of 7,500,000 will

[11:22:54 AM]

be provided by settlement proceeds and/or the future issuance of certificates of obligation. I want to verify that that will come back to the council for a vote when we know what settlement proceeds we get. Is that correct? I mean if somebody could explain the process.

>> Elaine, do you want to come forward, please?

>> Yes, Elaine hart, chief financial officer. Item 14 does say that the funding source would be either from settlement proceeds or from the future issuance of certificates of obligation. In the event that we did not have sufficient settlement proceeds, we would need to come back to council for the issuance of the certificates of obligation. Staff does not have authority to do that.

>> Gallo: Okay. Thank you. I just wanted to verify that for the public, for the community, that that decision would come back to council prior to it be implemented.

>> Yes, you are correct.

>> Gallo: Thank you very much.

>> Mayor Adler: The vote on number 13, those in favor please raise your hand. Those opposed on number 13? Those abstaining? I have Ms. Houston abstaining. I have no votes troxclair and Zimmerman. The other seven of us on the dais voted yes. Ms. Kitchen is off the dais. She had previously voted yes on all the other waller creek items, she is just not here. Okay. So the other seven voting aye. Ms. Kitchen off the dais. All right. Thank you. We're now going to move

[11:24:54 AM]

forward. The next item that I have -- I'm sorry? The next item I have is item number 6. I have 6 and 7. Who pulled these?

>> Troxclair: I did. I have a couple quick questions for staff if there's staff here.

>> Mayor Adler: Is there staff here?

>> Troxclair: We can come back.

>> Mayor Adler: What's the question I have? Here it is.

>> Good morning.

>> Troxclair: I just wanted to understand first the difference between the two programs.

>> The two programs, the substance abuse program, the mso, is the program that we have for our wrap-around services, transitional housing, detox services for those come to our courts seeking our services. And the road to recovery is -- is our substance abuse. For those that have substance abuse problems that we need to address before

we can put them into transitional housing and help them to -- assist them with finding a home.

>> Troxclair: But the first program also addresses people, it helps people with substance abuse issues?

>> It will help with detox services and it does provide life skills, transitional home. It does provide some substance abuse, but the real treatment comes from road to recovery.

>> Troxclair: Okay. And road to recovery is -- I

[11:26:59 AM]

guess I'm concerned especially after the -- hearing from the speaker this morning, what happens -- I mean 25 -- we're serving people in the road to recovery program. This is a new program?

>> No, this program has been existence since I believe 2006.

>> Troxclair: Okay. And we're serving people -- the highest risk people are people who have received -- who have been in front of the downtown community court over 25 times?

>> Well, that is the population that we are trying very -- very hard to serve, but anyone who comes to our courts seeking our services, especially -- well, primarily our homeless, that come to our court seeking our services, we are going to try to provide them with those services, especially since we are very committed to trying to assist the homeless people, those who are --

>> Troxclair: Yeah, it's just such a -- it's a high number of incidents. I would hope -- I don't know -- I don't know what the -- the right way to ask my question is, but how -- I mean what can be done to reduce I mean the number of people that have 25 or more incidences and then what happens with those people afterwards? I mean if they have 25, do they have 50, do they have 75, do they have 100? What is the next step?

>> Well, unfortunately we do have a number of clients who do have quite a few citations or violations. The problem is because they are a class C violations, their fine-only offenses. So it's not like we can -- what we're trying to do because a majority of them -- the majority of the offenses are because they don't have a place to sit, to lie or to sleep. And because they have substance abuse issues, it becomes -- it complicates it. It makes it a bit -- it's a

[11:29:00 AM]

bigger -- it's just -- it complicates it for them because you are citing them for sitting, you are citing them for lying, you are citing them for being -- you know, possibly having an open can of beer. One person can actually get three or four violations in one sitting so that's why they are violations, they tend to end up with a high number. That's why we call them our frequent offenders because of the number of violations. But can we help them? Yes. And do we? Yes, we do. We have actually just housed our number one frequent offender who had over 400 citations, but it required the services of the mso and road to recovery. To do that.

>> Troxclair: So how many people go through the road to recovery program that already had more than 25 violations that come back again?

>> I unfortunately don't have that information with me. I can always provide that information for you, but I don't have it with me and I can't tell you off the top of my head. I'm really sorry.

>> Troxclair: I just want to understand what the next step is for those people -- constant cycle because I can understand -- I know this affects a bigger part of the community, but I can understand as someone who went to U.T. And had a lot of experienced a lot of the same issues and stories I'm hearing from parents of U.T. Students now, that it doesn't -- whatever we're doing doesn't seem to be addressing the problem. And I don't know -- and that's not a criticism of this program and I'm not saying that the services that this program is providing aren't helpful, and I know that some people may never be able to be helped by the kind of services that the city provides. But I just -- I want to -- I want to better understand what the next step is for the people who are clearly not being helped.

>> For those that are not being helped -- well, we have

[11:31:01 AM]

outreach services. We do try to go out and look for those that we feel would benefit from our program, especially if we know that they are on our frequent offender list. And we get them into the services again, specifically to road to recovery if that's the first step that needs to be taken and get them into transitional housing and start providing them with the life skills they need in order to be successful once they are housed. The difficult part would be, again, that housing is also an issue for us. Finding affordable housing. But keeping them off the streets and providing them with a transitional housing, which is what these -- what the mso program does for us in addition to other efforts that we have on our own.

>> Troxclair: But you don't know the number or the percentage of people who go through one or both of these programs and then end up back where they were before?

>> No, I'm sorry. I did not bring that information. I would be more than happy to try to get that for you.

>> Troxclair: I think that would be helpful.

>> If I may, mayor, ray Ariano, assistant city manager. In terms of responding to your question about what might be nexted or how can we help these individuals repeatedly coming back taking advantage of these services. These two items before you today are just single pieces of an overall program. I'm actually involved in trying to look at comprehensively in a multi departmental and even agency perspective how we might help the homeless population, particularly right now we're focusing around the downtown area, the arch and the west campus, but we are taking a look comprehensively at what kinds of services do they need, how might we interrupt this cycle of, you know, ending up perhaps in these services, then being released,

[11:33:02 AM]

getting citations, how might we interrupt that cycle and better coordinate the service that can be wrapped around them. These are particular service that we're looking at but we have an effort in place to try to look at this comprehensively and address the situation.

>> Troxclair: Thanks.

>> Mayor Adler: Mr.

>> Renteria: Can you introduce yourself?

>> I'm accounting coordinator for the downtown court.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: I want to turn to the back side of item 6 information we have where it talks about the performance measures.

>> Uh-huh.

>> Zimmerman: And it talks about the number of unduplicated clients. What is an unduplicated client compared to duplicated?

>> Unduplicated is someone new to the program.

>> Zimmerman: A new client.

>> Yes.

>> Zimmerman: Just me, but I would prefer new client. Anyway, it looks like we're going to declare success if we spend the money on 37 new clients here and that the client says that they are satisfied. So how does that work? You know, if we give a new client some services and after a period of time do you give them a survey with a little box and it says check here if you are satisfied and here if you are dissatisfied?

>> Actually what is happening they are being surveyed while they are in the program. So that this will allow us to instill any improvements if there are any or issues to be addressed the survey allows us to do that.

>> Zimmerman: If the person to the program was -- you call it road to recovery. Sometimes these programs can have terrific results on occasion, other times the road to recovery ends in a dead end and we spend money and we have nothing to show for it. So if it were me and I looked

[11:35:03 AM]

at the outcome and said I've got a road to recovery, there would be some target for here's how many people I think would be recovered and be helped. They are going to get off skid row and they are going to get jobs and get rehabilitated and join society and then there will be others that this road is just another dead end. So the outcome ought to be how many people don't reenter the program. How many people, you know, get back on their feet and get a job and start contributing. But that's not the outcome and that's very concerning. And it's not to single out this because this is the habit, this is the rule of what I see. It's not about outcomes. The outcome is we're going to spend the money and they say they like the way we spent the money and we're done. So I'm going to be voting against this because I agree with councilmember troxclair, we're just running in circles spending money and really having not much to show for it.

>> Mayor Adler: Ms. How often, then the -- Houston, then the mayor pro tem.

>> Houston: First of all, thank you, I think this is your first time before us.

>> How could you tell.

>> Houston: You are kind of nervous. I still can relate to that. When you deal with individuals who have substance use issues, it's not a one-time in and you are fixed.

>> Correct.

>> Houston: It's not a three times in and you are fixed. Sometimes it takes multiple, multiple times of going in for ongoing kind of counseling and therapy before somebody finally the light comes in and they say I want to be in recovery. And so until that happens, it's my opinion that it's up to us to be able to say here's a place where you can go and get that support. And you may relapse, you may relapse multiple times, but we haven't given up on you. One of the things that I do want to share is that my opinion, not anybody else's,

[11:37:03 AM]

is that as the states started reducing the amount of inpatient beds for people who have substance use issues or behavioral health issues, then that fell on the cities. And the cities' jurisdictions did not have the kinds of funding that they needed to be able to ensure that people got the right kind of care at the time that they need it. So, of course, I'm going to be supportive of this. You know, we might look at some different kinds of performance measures, but I know this is a long road to recovery. It's not a short road and sometimes it's not a dead end. It just takes some people longer than others to reach that point where they said this is not the lifestyle I want to continue and I need the help. So I appreciate you being here.

>> Thank you so much.

>> Mayor Adler: Mayor pro tem.

>> Tovo: I agree with my colleague, councilmember Houston, I share that opinion and I appreciate you speaking from a position of knowledge about those issues because that's very helpful for those of us who are not as knowledgeable so thank you for that. I wanted to thank you for the work of the downtown Austin community court. These are very challenging issues and I appreciate the work that you do in partnership with other organizations and just to add that I recognize this is a multi-year effort. It requires permanent supportive housing, requires funding for these kind of supportive services and others and I appreciate that you are working well with the limited resources you have and I hope that we can all work together to increase those resources because there's such tremendous need.

>> Thank you so much.

>> Mayor Adler: Ms. Pool.

>> Pool: And I wanted to lend my voice to thank you and staff for the hard work you do in the community and also the various community organizations that also lend their inspiration and their expertise. If these were easy problems to fix, we would have fixed them a long time ago, but they are not. And -- and I think we're very aware of that and so, again, thank you for the work.

>> Thank you.

[11:39:05 AM]

>> Mayor Adler: Is there a motion to approve items 6 and 7? Ms. Pool, seconded by Ms. Troxclair. Those in favor -- Ms. Houston? Those in favor raise your hand. Opposed. Mr. Zimmerman voting no, the others voting aye. We're now did you know with items 6 -- did you know with 6 and 7. Let's go to item 12, the aus-tex towing matter. We have some citizens to speak. Is Melissa Frederick here? Would you like to come and speak? And then Henry Jones. Is Rodney Hall here? Come on down. You have six minutes then.

>> Good morning, mayor and councilmembers. My name is Melissa Frederick and I'm here representing aus-tex towing and recovery who was the recommended vendor for the towing of Austin's fleet vehicles. This particular solicitation has been quite a challenge for us. It initially opened back in August of 2015 and had a closing date of September the 1st. Aus-tex was the only vendor to attend the pre-proposal meeting. On September 1, the day the bid was to close at 2:00, the time the bid was to close, we received an email stating an extension of one week had been placed. The new closing date was to be September 8th. There were two companies that bid on this contract, not one. Aus-tex towing was the lowest bidder by more than half a million dollars. On December 21 we received notification that

the solicitation was to be listed as an rfp with a new closing date of January 28th. On January 28th, 15 minutes prior to the closing time, we received notification of yet another extension with a

[11:41:05 AM]

closing date to be February the 4th. This time there was only one bidder and it was aus-tex towing. We received notice on February the 17th that we were being recommended to be awarded this contract and here we are three months later. After the first bid was opened in September, both bidders' pricings became public record. Any company that wanted to bid on this new rfp now had the prices and they knew what the prices were that needed to be beat. We felt we were at incredible disadvantage and feel today we are still at disadvantage. We have attended every pre-proposal meeting, we've asked questions, we've received our answers, we have read and we've understood the multiple solicitations. While watching the council meeting last week we find that because companies weren't actually able to read the new rfp, we hadn't yet been awarded this contract. It was also brought up at the last council meeting that minority businesses were at a disadvantage for this solicitation. We are a woman-owned business enterprise. We are a minority. This contract didn't show that it awarded any additional points for being a minority owned business. Points were given for the equipment, cost, ability to perform and qualifications and local business presence. Race and sex never listed as a factor to benefit. The last council meeting had several speakers present. One stated they had this very contract many years ago and they provided service to the city with only three pieces of heavy duty equipment. You all need to keep in mind that from the 80s and 90s to today a lot has changed. The city is bigger and busier, equipment is heavier, and a little more advanced. We have 12 pieces of equipment that are classified as heavy duty in our fleet. We don't have the equipment just to be cool as was mentioned in the last meeting. We have the equipment because we found that after being in this industry for more than 50 years it's a necessity. Most of the units that we tow

[11:43:06 AM]

for the city of Austin are incredibly expensive. I would want my own fleet to be towed by the proper equipment so as not to risk any costly damages. I would also like to point out that on any given day we get multiple calls from the city of Austin to go pick up their vehicles. If we didn't have the trucks capable of handling these tows and multiple trucks in our fleet, there would be employees stranded on the road, trucks broke down for many hours on end. There are a lot of other statements made at the last meeting that were incorrect and one in particular I wanted to set the record straight on. A council member commented there was a common theme between issues on a previous rfp and this one being our company. This is untrue. The rfp that I'm certain that he was speaking of was awarded to auto returns, not aus-tex towing. We are currently a subcontractor on a contract with the city of Austin and we have been the single contract holder for the city of Austin fleet since 2009. We apologize that we weren't here at the last meeting to defend ourselves or make clarification. We weren't aware we needed to be. We feel we provide a great service to the city of Austin and hope we are able to continue to do so. Thank you.

>> Mayor Adler: Thank you. The next speaker we have is Henry Jones.

>> [Inaudible]

>> Mayor Adler: Thank you. Is there a motion on this item number 12? Motion to approve item number 12? Ms. Pool. Second Mr. Renteria. Any discussion? Ms. Gallo.
>> Gallo: You know, and I appreciate you being here and all the comments. I mean I think that there were many of us on the dais that expressed concerns about --
>> Mayor Adler: Do you still need the speaker here? I didn't know if you were speaking to her. You can sit down. I'm sorry, Ms. Gallo.
>> Gallo: Concerns with some of the comments that were made by previous speakers on previous days. And I hope that when we look at this next year that -- that

[11:45:06 AM]

some of those concerns and considerations will be -- staff will look at and address and pull some of that community, and it was apparent as we tried to promote small business opportunities in our community that when we do solicitations that require a large expense from an equipment standpoint that we eliminate a lot of those opportunities for the small businesses. So I hope that next year when we're looking at this again that staff will address that. I appreciate the work that staff does, but we certainly heard from some people in the community that there were some barriers to small businesses being able to participate.

>> Mayor Adler: Thank you. Any further discussion on item 12? Mr. Zimmerman.
>> Zimmerman: Thank you, Mr. Mayor. Just a couple notes on the C and a. Dated -- Q and a. Looks like four pages of Q and a. I'm not going to belabor the point. I want to call out two things. On page 2 there was an expert here in the towing business, Mr. Donovan. He had had this contract prior to the new bidding of the contract. So he is qualified as a technical expert in the matter of towing. And it was his opinion as an expert, as a professional in the business that the requirements that were put in for this very, very heavy duty rotator truck were not necessary to do the work. And he would know that because he actually does the work. So let me show what the staff has responded to. They say a speaker on this item may 5th stated a rotator and two 50-ton trucks are not necessary to perform services. That was an expert opinion. Here's the answer from staff. A rotator truck is a heavy duty vehicle equipped with large boom and crane that can rotate full 360°. Rotator trucks were only

[11:47:09 AM]

required if responding to medium and heavy duty service categories. Fleet requires the services to tow large trucks, fire trucks, garbage trucks, tractor-trailers, et cetera. So -- so we have an expert in the business who makes a very specific objection and the answer from staff is very, very nonresponsive. It's completely nonresponsive. On the third page there's one more clarification here. This is the second one. There was a speaker here that testified that there was a lack of return emails and phone calls. You know, concerning questions about the solicitation. And the staff says, staff has no record of any emails or phone calls that were not responded to. Well, that's the point that the speaker is making. They make phone calls, they make inquiries and they are not returned. So all staff has to say we don't have any record. That doesn't -- that doesn't answer the objection. But again, I'm not going to be labor this I'm going to vote no.

>> Mayor Adler: Manager, did you want to -- 12 has been -- I'm sorry, yeah. 12 has been moved and seconded. Those in favor please raise your hand. Those opposed? Zimmerman voting no. Others voting yes. Troxclair off the dais. Houston off

the dais. And Garza abstaining. Ms. Houston, are you -- do you know how you want to vote on the aus-tex towing? Yes. So the vote again, it's -- it passes. Troxclair is off the dais. Garza is abstaining. And Zimmerman is voting no. The others voting aye. This item passes. The record should reflect that

[11:49:09 AM]

councilmember kitchen was off the dais for a few minutes when we voted on number 13. Had she been here, she would have voted yes. All right, that gets us to item number 20. This is the senior swimming issue. It's been pulled by speakers. We have five speakers to speak on this. I would imagine that this is an item that's going to pass would be my guess. But certainly we want to give the opportunity for speakers to speak if they want to speak. I'm sorry, I have the wrong one here. Honorably discharged veterans and service connected disabled veterans. Mr. Peña, do you want to speak? And as he's speaking, just so that I have a feel for timing because we have citizen communication at noon, do we anticipate -- any of the councilmembers anticipate raising any concerns about this matter? Ms. Houston.

>> Houston: I'll just have a question or two.

>> Mayor Adler: Okay, that's fine.

>> Mayor, councilmembers, thank you very much for this item on the agenda. I know there might be questions as ora said, but from the standpoint I am a United States Marine Corps veteran. I'm pretty sure they would be supportive. Thank you very much for this item. Like I like to joke with my wife, I don't swim but I float. It is very importance for veterans and thank you all for your kindness and support.

>> Mayor Adler: Thank you. The next speaker is Mr. Lopez. Is he here?

[11:51:11 AM]

David king.

>> Thank you, mayor, mayor pro tem, councilmembers, I'll be real brief because I believe this is going to pass hopefully unanimously, but I want to make the point it shouldn't be reduced fees, it should be free. We should not be charging our veterans for our pools and I hope you will make sure this passes as free to veterans and not reduced costs. Thank you very much.

>> Mayor Adler: The next speaker we have is Rodney curry. Is Jennifer Perkins here? Mr. Curry, you have six minutes if you would like to take it.

>> I'll be brief in my statement, Mr. Mayor. Good afternoon, Mr. Mayor, city councilmembers and city staff. My name is Roddy curry and I'm here to speak on behalf of the resolution before council today. I grew up here in Austin and graduated from Crockett high school before enlisting in the U.S. Army. I served three and a half years in the 101st airborne and was deployed to Iraq in support of operation Iraqi freedom. Where I served as a gunner and driver for a convoy security platoon. After my enlistment I decided to return to my hometown of Austin and start a family and raise my daughter here. As a result of my service I suffer from PTSD and other disabilities that require continuous treatment and affect my daily life. I'm grateful to the city of Austin, its mayor and city council for considering the proposed resolution providing discounted and no cost aquatic passes to veterans and disabled veterans. As with so many other veterans I have found that spending even brief periods of time in a water environment helps to alleviate the mental and physical scars I carry from my service. Once again I thank you for your consideration of this resolution. I look

forward to its adoption by the city and utilizing its

[11:53:12 AM]

exceptional aquatic services to continue and further my recovery efforts. Thank you.

>> Mayor Adler: Thank you. Michael Hillbrick. Is Michael here? Take your time.

>> Good afternoon. My name is Michael Hillbrick, I resigned as councilmember Gallo's district and immediate past president for the Texas chapter of the elite veterans network. I enlisted in the Navy at 17 and headed to basic training ten days after graduation from high school. Serving during the first Gulf War Desert Storm. I turned 18 on the sands of Coronado Beach and at 19 injuries cut my naval career short. Injuries that I still deal with 25 years later. Like so many veterans with disabilities I struggled to find direction with my life after the military. Spending time in the water is an integral part of my therapy and pain management for my injuries. I would like to extend my thanks to councilmember Gallo and her office for carrying the water and providing leadership. The mayor and the city council for their consideration of this resolution. As all of us that have served before know, we do things not just for us but for those that come after us. While this resolution may appear as a little thing, it provides the opportunity for veterans and disabled veterans to deal with and manage their injuries and improve their quality of life. Thank you very much.

>> Mayor Adler: Thank you. Yes, Ms. Gallo.

>> Gallo: I just wanted to thank you because you worked very diligently with our office and brought this forward to us and we really do appreciate it.

>> Your office was very responsive with this. Thank you very much.

>> Gallo: Thank you.

[11:55:17 AM]

>> Mayor Adler: Any -- someone want to move passage? Ms. Gallo. Is there a second in Ms. Ms. Garza. Any discussion? Ms. Houston, you had some comments.

>> Houston: My son is a veteran, 23 years he served before retiring. I talked with councilmember Gallo about the fact that 10% disability rating is very, very low. I mean my son has a 60% disability rating and so I was just wondering the difference in abilities and disabilities as far as how many people might be using these services. It's not that I'm against them, it's just that it seems like that threshold is very low. Because -- anyway, as I said, my son has a 60% disability and he's still employed. So I was just want to go have a conversation about is that 10% -- that's a grade and is there another where it would be we get a little bit more understanding about what the disability levels are and the rankings are, but I don't know if there's anybody here that can help us explain that.

>> Mayor Adler: Is staff here to address what the financial impact of this is or the issue of disability rating cutoff?

>> Houston: Right.

>> Mayor and city council, Bern Lumberras. I think there was discussion with our staff. We did have staff here from the aquatics division for this item but I think they misunderstood the item was on consent so I apologize. I'll be happy to get them back as quickly as possible.

>> Houston: If we could get information next year about how many disabled vets are

[11:57:18 AM]

actually using aquatics facility.

>> We can certainly provide that information for you.

>> Houston: Thank you.

>> Mayor Adler: Thank you. Any further discussion? Those in favor of item 20 please raise your hand. Those opposed? Those abstaining? Mr. Zimmerman abstains. Ms. Troxclair off the dais.

>> Gallo: I'm sorry, councilmember troxclair is off of the dais but she did also want to be shown as a co-sponsor for this.

>> Mayor Adler: Let the record reflect Ms. Troxclair is a co-sponsors. We have Mr. Zimmerman voting -- abstaining, Ms. Troxclair off the dais, the others voting I. That item number 20 passes. That gets us I think to citizens communication. I'm showing the items we still have to handle will be items 23, 24, 25, also 22. So 22, 23, 24, 25. And items 43, 44, 45, 46 and 47.

>> Mayor, I can -- I have one consent item if you would like to consider before we go on break.

>> Mayor Adler: And 47 we're going to postpone but we can't do that until 2:00.

>> Pool: Mayor, I think 22 is a quick one too. That's the -- it was the update of the bylaws for the environmental commission, and it was part of a task force on when they -- when we changed to 10-1.

>> Mayor Adler: Let's call that for a quick vote. In fact, while we're on that, Ms. Pool moves adoption, passage of item 22.

[11:59:31 AM]

>> Gallo: Mayor, I have an amendment.

>> Mayor Adler: It's not going to happen quick. Let's hold off.

>> Quickly, Greg Guernsey, item 25, c14-2015-0133a --

>> Mayor Adler: Hold off because I need to abstain from item 25. Ms. Kitchen.

>> Kitchen: Go ahead.

>> This tract is not within the density bonus area and therefore not eligible for the commercial bonus. That kind of came up as a council question. What we can go forward with second and third reading, the applicant agrees to offer this for consent on second and third reading. This is for the property that's located at 1204 San Antonio and does prohibit the five uses. There is amplified sound is restricted because of a restricted covenant. And this is to prove the dmu-co combined district zoning.

>> Kitchen: Do we have any comments from anyone? This is -- this is district 9, I believe, is it not?

>> It is, and the public hearing has already been closed.

>> Kitchen: Well, mayor pro tem is not on the -- she's abstaining. That's right. Thank you very much. All right. Do we have a motion for approval? Moved by councilmember Renteria, seconded by councilmember Garza. Any questions? Comments? I don't think we have any speakers. Councilmember Gallo.

>> Gallo: Okay, so it's -- so what we are approving is staff's recommendation? Because it came from planning commission with a different recommendation.

>> Right now we're just approving what was approved on the first reading.

>> Gallo: Which was?

>> To limit the height to 60 feet, prohibit bail bonds services, cocktail lounge, liquor store, outdoor entertainment and amplified

[12:01:33 PM]

sound as being prohibited. And the applicant raised an issue regarding trying to do 90 feet through a bonus for commercial space for the creative industry. After discussion with law, this is outside the densitybonus area and not eligible for a program like that. And that was the question that came back. So we've discussed this with the applicant's representative, Ms. Glasco. She understands that and willing to do with what happened on first reading.

>> Gallo: So could she address us and confirm that, please? Was the planning commission aware this discussion when they approved a different --

>> I believe this came up with the council reading and that was given the commission's recommendation was as I have read into the record and I think the creative letter of support was brought in at the council meeting.

>> Gallo: Okay.

>> Good afternoon, councilmembers. In response to your question, the planning commission recommendation was to grant dmu with a height of 90 feet. And when we got to the unanimously, the 10-0 vote, and at the previous council meeting, council approved on first reading 60 feet. Staff recommendation. And what I had offered on behalf of the applicant, Texas association of counties, is that with a community -- a community benefit would be to reduce rates, rental rates for ten years to the artist community that is Austin creative alliance, and the

[12:03:33 PM]

rates would be -- the offer was a 10% of the gross square footage if we get the 90 feet planning commission recommendation. Would have reduced rate of 50% of cbd rates and then that would be for a ten-year period. And staff tells me that because it's not in a density bonus area then it can -- the city cannot accept that offer of providing - - exchanging additional height for a community benefit that would provide reduced rents to the Austin creative alliance for creative space.

>> Gallo: So do you feel like the planning commission's recommendation that the 90 feet was in conjunction with the agreement -- conjunction with the agreement for reduced rent?

>> That discussion did not come up at planning commission. They purely looked at land use and surrounding heights. They did not at all look at the community benefit aspect of all that. That came up at the city council hearing.

>> Gallo: Thank you.

>> Pool: Councilmember Kitchen, whenever you are ready, I have a motion to make on this one.

>> Kitchen: We made the motion, I think, did we not?

>> Pool: I was off the dais.

>> Kitchen: The motion is to move forward with staff recommendation on second and third reading which would keep it at 60 feet.

>> Pool: Dmco with pro hinted uses --

>> Kitchen: State that again just for --

>> This is first reading, 60-foot height limitation, prohibited basically -- bail bonds services, pawn shops, liquor store, outdoor entertainment amplified, outdoor sound as being prohibited.

>> Pool: Thank you.

[12:05:33 PM]

>> Kitchen: When we pass this on first reading, this is the item we had some testimony I think from the neighborhood groups around there, correct?

>> That's correct.

>> Kitchen: And they had testified in favor of keeping it at 60 feet because that was in line with the neighborhood plans. Is that correct?

>> The downtown plan.

>> Kitchen: The downtown plan. Okay. Councilmember Zimmerman.

>> Zimmerman: So are all the parties okay with what's in front of us or is there some disagreement still in.

>> Kitchen: So it's your understanding that the parties are in favor of moving forward with this or --

>> It was my understanding conversations with Ms. Glasco before that I guess she had resigned herself to the 60 feet at first reading. That's why I offered for consent. If council would like to discuss I would suggest we defer this until citizens communications. Your pleasure.

>> Kitchen: Should we move forward on consent? Let me put tonight way. Does anyone want to pull this for further discussion or should we just go ahead and vote on it?

>> I would like to make a comment before we vote.

>> Kitchen: Councilmember Renteria.

>> Renteria: The contact team and the neighborhood wanted to keep it at 60 feet.

>> Kitchen: Councilmember Gallo, do you want to make your comment and then we'll vote?

>> Gallo: I certainly understand the reasoning behind the staff recommendation and I respect the neighborhood participation in this, but what's really difficult for me is I keep coming back to the unanimous decision by the planning commission for a different height for the 90 feet. And it just -- you know, I struggle with the idea when we talk about height and we talk about providing opportunities for businesses and residents within our community that downtown would be a place to do that. So there's -- there's good arguments on both sides so as a result I'm going to abstain from the vote, but I just

[12:07:35 PM]

wanted to express my reasons why and once again really uncomfortable with the fact the planning commission brought this forward at 90 feet to us on a unanimous decision.

>> Kitchen: Okay. Are you all ready to vote?

>> Zimmerman: Hang on. Would it be in order I made that amendment to move the height to 90 feet to see if it could get a second and vote.

>> Kitchen: If we're going to have more discussion and do amendments, I don't think we should move forward on consent. If you would like to do that, we're going to wait on this item.

>> Zimmerman: Okay. Well, I would like the chance to do that. It won't take long, but maybe there's not time to do it now. That would be up to you, if you want to entertain it now or wait until later.

>> Kitchen: Let's see if you get a second.

>> Zimmerman: I'll just make a motion we increase the height to 90 feet.

>> Kitchen: Is there a second? Thank you very much. No second. We have a motion to move forward with it at 60 feet and as laid out by staff. All in favor? So we have six in favor of moving forward on second and third. We have one, two --

>> Zimmerman: Abstaining.

>> Kitchen: We have three abstaining because the mayor pro tem is abstaining. So is the mayor. And then council member Troxclair off the dais.

>> That would be approved on second reading.

>> Kitchen: Recused. I'm sorry. So the mayor and mayor pro tem are recused. You were saying?

>> In that case because we do not have seven votes approval on second reading and bring it back on June 16.

>> Kitchen: We'll move forward with citizens communication. I see the mayor pro tem back on the dais so I would like to turn it back over to her or the mayor is back to turn it back over to him.

[12:10:00 PM]

>> Mayor Adler: Citizens communication. Our first speaker is Ross Silvey. Mr. Silvey, you have three minutes.

>> Good afternoon. I'm got a pre-recorded presentation. [No audio]

>> Mayor Adler: Volume? And then can you start it over again? [Inaudible] Here's what the city auditor said. He noted there is general agreement [inaudible]

[12:13:18 PM]

:

>> Thank you. Thank you very much.

>> Mayor Adler: Thank you. The next speaker we have is pinaki Ghosh.

>> I have a presentation. Can you -- yeah. My name is pinaki Ghosh. I used to be a commissioner for the community technology and telecom commission but I refused their gifts and resigned. My journey with the research for city of Austin I.T. System. Started when code compliance employees changed and falsified some of my house data in the I.T. System. That's when I started researching the city I.T. System. What I found is something strange is if you look at in the middle there is a citizen and in order to get services from the city, the citizen has to have 20 domain identities. And 79 access points. Some of the things may sound strange to you, but this means that I as a citizen has so many authentication and so many identities to the city, but is this a problem? This is not the real problem. So what is the real problem? The real problem is here. City of Austin has got seven

[12:15:19 PM]

I.T. Departments and these are the majority departments. I'm not talking about the shadow I.T. Departments. Now, if you look into the even large oil companies like Exxon Mobil or Conoco, and I do work with most of them, I can tell you almost 100% of them have one I.T. Department. And typically we are talking about 160 to 170 million-dollar companies. Austin is very small compared to them. So and the I.T. Acts as a service department. It's almost an external agency which provides service. See, my recommendation, and by the way I wanted to do it in my commission but I was not allowed. My recommendation is city of Austin should be moving towards one single I.T. Department to save taxpayers dollars. This is somewhat similar to how Travis county works with I.T. With TCAD organization. We are looking at anywhere from 12 to 15 million dollars of savings direct and talking about a conservative number. That's \$1 million for every district and probably a couple million for the mayor's. And then you are looking at potential -- I'll give you an example. Today every month I get anywhere from 20 to 30 snail mails from the city from various departments. We can turn that to zero, just to start with. So then the question comes how do we provide a basic solution. The fundamental two things that are necessary our city needs to have one I.T., one information technology system. And we need to define citizens identity. Everybody has a computer in their pocket. It's called a cell phone. And that creates what is called a [inaudible]. It's a very important thing in the transaction world called a trust model. So once city -- [buzzer sounding]

[12:17:22 PM]

-- Defines that we can create a city architecture for one I.T. Thanks everybody.

>> Mayor Adler: Thank you. The next speaker we have is Dale Flatt.

>> Good afternoon, council members. I also have a presentation to bring up. We will be sending you these in link so you can look at them in case the audio is poor. [Music playing] [Inaudible] One word, honesty. If a man is not honest, how can he expect anyone to believe anything he says? During budget hearings, city council member Don Zimmerman questioned Carl Smart about code employees that were not properly trained or certified. [Inaudible]

>> That statement is a lie. The recent audit report [inaudible] A large percent of code inspectors do not have the proper certifications for the positions they hold. The certification process is an open book test. In the last three years since the qualifications changed, many of the employees have repeatedly failed the test and a large percentage do not bother to take the test. [Inaudible] Employees were the best trained in the state, he lied to you. Mr. Smart has on many

[12:19:22 PM]

occasions made this statement. [Inaudible].

>> The statement code employees offer quality education to citizens is a joke. Some of you have had code violations on your property. Do you feel you have quality educational experience? As for Mr. Smart's statement they are striving to become and becoming a premier code department in the country, that is also a lie. At best it is wishful thinking. Mr. Smart's definition of being a premier department is that all employees will have a state of Texas certification and having one or more international code council certifications. Again, a recent audit report shows a much ditch friend story. Director Smart is misleading you and yet here is another lie. [Inaudible].

>> Again another lie. We have many documented cases where homeowners' civil rights were violated. Carl smart knew about it and he does nothing. Time to stop the lies.

>> Mayor Adler: Thank you. The next speaker we have is Kathy collins-flatt.

>> I also have a pre-recorded statement. Number 4.

>> City of Austin's own audit report. This audit is just a snapshot of the few of the many

[12:21:24 PM]

problems. Overall we reviewed 306 code complaints and found issues with about 77%. The oca reported similar issues in 2010 audit of the department. Violation investigation, documentation and resolution practices vary due to a lack of management oversight. Moreover, investigation and resolution practices relating to city-owned property often differed from established Austin code policies and procedures which may allow violations on city-owned property to persist and negatively affect citizen safety. Not all field staff and management meet the minimum qualifications specified by the department because the department has not established an effective system to ensure staff at all levels acquire and maintain qualifications. Staff and management lacking minimum qualifications may increase the risk of inconsistencies in code interpretation and enforcement. As you look at this table, it is clear when Carl smart stated that his inspectors are the best trained in the state, he was lying. The audit department report does not lie. 36%, over one-third of his employees do not meet the current minimum qualifications. 50% of the assistant division managers and 67% of the division managers do not meet the current minimum qualifications. These employees have had close to three years to get the certifications which is city pays for and many have not bothered to take the exam. Others simply cannot pass the [inaudible]. We were able to verify that ten out of the 25 were 40% employees included in exhibit 5 do not meet the minimum required certifications that were listed on their job descriptions at the [inaudible]. Please note Carl smart has

[12:23:25 PM]

[inaudible] With his code inspectors that closely resemble that of real law enforcement officers. In fact Carl insists on calling his inspectors officers. Far too many code employees do not meet minimum standards for qualifications and certifications. Would it surprise you to know several code employees have been arrested and pled guilty? One for insurance fraud and one for spousal abuse yet Carl smart still allows them to wear the badge and come on to your property.

>> Mayor Adler: Next speaker we have is Laura Luna.

>> Good afternoon, council. I also have a pre-recorded statement.

>> When it comes to enforcing the city's codes at homes and businesses this is Mr. Smart's philosophy. [Inaudible].

>> But when it comes to city of Austin buildings, Mr. Smart [inaudible]. The audit department found that investigation [inaudible] Practices related to city-owned properties often differ from established [inaudible] Which may allow violations of city-owned properties and negatively affect citizen safety. Smart's response the Austin code department does not have the authority to take action against government entities including city of Austin. The code department investigated the fire department for code violation 68 times. Most of these were addressed by position manager named

Todd Wilcox. [Inaudible] It becomes clear

[12:25:27 PM]

Wilcox does not have the proper training and certification. At the bottom of this list is Todd Wilcox. [Inaudible] Position and has not bothered to take an open book test. The documents and video showed [inaudible] By Carl smart [inaudible]. Turned in or having a work done for having work done without the proper permit. Mr. Smart did not follow his own policy and gave the manager a list of concerns, then just closed cases. These violations are still present today. How can the citizens of Austin feel safe in any city of Austin building including all of us here in city hall if Carl smart, director of code enforcement department, refuses to enforce the city's codes in his own office building or other [inaudible]. Now ask yourself if you were on the board of directors of a corporation and you were made aware of a department head who [inaudible] Placing a corporation at risk for a civil lawsuit, Bo you just sit back and allow this to happen or [inaudible].

>> Hello, my name is Steve Simmons. I am -- I live in district 9. I am the owner of Amy's icecreams, Phil's ice cream, baked by Amys and the Austin [indiscernible] Shopping centers. We employ over 500 people and a thousand people in related

[12:27:28 PM]

businesses like thunder cloud, ifly, soup peddler. Last year we served over 2 million people. I say all this not to boast but to explain the impact of our business. Since Amy's started in 1984 to 2007 we had zero interactions with the code department. In 2007 that all changed when the code department was expanded from a commercial officer and a residential officer to handle complaints to a much larger organizations. In the last nine years we've had 20 plus interactions with the code department for anything from failure to display a demolition permit on a building that had been moved, having a wrapped van on our property that a competitor claimed was a sign, the same competitor called four more times just to harass. Another store had a code officer along with 3 A.P.D. Officers charging the backdoor of the store on a Saturdaynight, looking for a permit for a patio that the city had built. Only once have we received a citation for having a sandwich board sign in the right-of-way. Of course this happened during the cleanup of the store after a break-in. There was glass all over the floor and a crime scene and we got a ticket. I went to the dispute the ticket at city hall and three of the four corners of city hall had sandwich board signs. My point, we've turned our community into a bunch of tattle tails, rats and snitches. Instead of talking to our neighbors they're making anonymous called to 311. Competitors are calling code to slowdown projects and driveup building costs. We've turned our community into a bunch of anonymous trolls. Mr. Smart will claim code is working because they got 23,000 calls last year. Of course the code department spent thousands of dollars advertising on buses, radio, and TV. All this process proves is that advertising works. The real statistic is important is how many lives have they saved? How many buildings have they

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kept from falling down? The bottom line, zero. Do we need to be spending \$8 million a year to pit neighbors against neighbors, businesses against businesses? Do we need the

hundred plus code officers driving around our neighborhoods peering over fences, looking for things to harass the taxpayer for? The answer is no. We have a lot more pressing issues. Austin is becoming a nanny state where complaints and tattle tails are taking the community out of our community. In the next budget I urge you to cut the advertising for the code department and dramatically cut back the code department. Thank you. [Applause]

>> Zimmerman: Hang on, Mr. Simmons? Mr. Simmons? Just quickly. First I want to say thank you for taking the time to come down here and speak to us. And I appreciate and agree with your remarks so thank you very much.

>> No problem.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Next speaker is Jenn Lee.

>> Thank you. I also have a prerecorded presentation. It's going to be speaker seven.

>> [Inaudible]

>> I would like to demonstrate that Carl Smart said this to deceive you and [indiscernible] Dangerous properties. This has been an ongoing problem which has not improved under his leadership. In August 2013 UT did a study entitled addressing problem properties. It states Austin's code enforcement rather than a proactive and strategic response that targets the most serious code violators across the city. Code had visited the complex 33 times in the prior 28 months in response to tenant complaints but no citations

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were ever issued. When the units were finally inspected thoroughly after a walkway collapsed the code inspectors found 760 code violations in 48 units. The Woodridge case study discussed above is a prime example of the weakness in the city's current enforcement system. The final conclusion on this issue was the city of Austin has a robust program for remediating weed and trash violations but no program in place to repair buildings or as a last resort for the worst and most dangerous properties to place the buildings in the hands of a receiver to bring them up to code. In response, in October of 2013, council implemented Austin's 252 ordinance which requires the code department to present quarterly reports to the city council that addresses repeat offender program properties. Code's response times to violations as well as percentage of properties receiving periodic inspections. As of the date of the most recent report code had not complied. Last year's Restore Rundberg report had this to say. Property owners with repeated or severe code violations are rarely faced with legal action by the city. In June of 2015 UT released another report entitled [indiscernible] Efforts to address dangerous rental properties it states the response time for conducting an initial system in response to a citizen complaint [indiscernible] Other types of code violations. In our prior report we called out a major deficiency with Austin code's enforcement program that fails to identify the city's most egregious code violators. This continues. Several of the recommendations in 2010 audit still had not been implemented. Most recently the city auditor related findings on April 11 and agreed. Citing an example of a burned vacant property which is not fully secured for over six months the case of a woman living without electricity, plumbing, for at least two years. The pictures you are looking at are code violations I took in the Rundberg neighborhood just last week [inaudible],

[12:33:29 PM]

it's time for less lip service and a change of leadership.

>> Mayor Adler: Next speaker is [indiscernible] I'm going to keep them all here on code enforcement. Is Dani Tristan here? Oh, I'm sorry. I had seen now the order. Ruben, okay. Ruben Rodriguez. Then I have two speakers that are left, Susana Almanza and Dani Tristan. It looks like he's speaking to the code issue so I'm going to call him next and then Susana sir.

>> Thank you, mayor, my name is Ruben Rodriguez. I have a recorded statement. Thank you.

>> [Inaudible] Of the code compliance in the [indiscernible]. One of the cases involves a homeowner who was falsely accused of placing over 4 feet of fill in his backyard. And did he do that? He did not. In fact, we had different expert witnesses prepared to testify against these allegations. We had these lined up to demonstrate that the allegations were false and this unfounded after a lot of waste of resources, specifically city resources or taxpayer resources, the cases were ultimately dismissed. With respect to the legal training, as far as I have experienced, [indiscernible]. Many times they are not prepared, they don't know the process. They don't answer honestly and truthfully and sometimes that

[12:35:32 PM]

is categorized as we just simply don't know. In one particular case, while we were in court, there happened to be unbeknownst to me an official from the district attorney's office, the Travis county district attorney's office, and he witnessed one of the Austin code enforcement employees signaling in answers to the code enforcement witness that was on the witness chair. And that is just completely unacceptable. He approached me and shared this information with me, and he said that never in his entire 30 some odd years of experience with the district attorney's office had every witnessed such an event. It's difficult to get a fair shake in part because the system is set up such that an individual doesn't have the opportunity to maneuver in and out of the court system without knowing the lashings without knowing a lot of the court procedures. I've had the opportunity to cross-examine some of the code enforcement witnesses and the department brings forward to these trials. In my experience in cross-examination of some of these affidavits is many times they don't know what they signed, they contradict what they signed, they sign boilerplate language that they have absolutely no understanding what it means and later they'll just pun it off as that's what I was told. It's just -- it's very disappointing.

>> Mayor Adler: Thank you. The next speaker is Dani Tristan.

[12:37:35 PM]

>> Thank you, guys, for your time. I'm Dani Tristan, a commercial real estate broker and fortunately I don't have to have too many run-ins with code enforcement but I do have some things that I'd like to share with you guys. I see a pattern up here and it's a ten-one district and I think the first problem is everybody has their district that they're a speaker for. And, unfortunately, I feel like a lot of the votes that you guys make are consensus decisions and not leadership decisions. And so while you have a few people here complaining you to guys, I'd like for part of your brain to think, what's good for

the community? For the 60-foot thing that I heard today, the neighborhood is against it. Of course. It's their neighborhood. But what's good 40 neighborhood is not necessarily good for the community. So please vote for the community and not just the neighborhood. That's a small group of people that you're voting for. Downtown has to grow somewhere. And I think that area seems like the most logical place for downtown to grow. I see, I think, Carl smart, I've never met Carl smart. I've never met Marc Ott but I know that mark for example, has been in his position for a very long time and people with high position have a lot of weight on their shoulders. And I think it it would be smart for the council to consider rotating these positions and not let them have their forever -- art Acevedo, for example. I like art. He's a likeable person. He reads to kindergartners but you can't have people in these high positions for a long

[12:39:35 PM]

time, especially when no change is being done. So dale has made a very compelling argument here and I hope that some of you heard that. I know there was about three people that listened to the majority of what was said, bad audio, bad video, but I would ask that not only they reconsider Carl maybe a new position for Carl, but maybe Marc Ott also and Acevedo. I think it just needs to -- rejust need to rotate these guys. You can't have such a big weight on their shoulders for such a long period of time. We immediate to rotate these guys -- need to rotate these guides and I'm sure they're doing the best job they can, but it's just -- there's not going to be any change. Everybody is going to continue to complain, and god bless you guys for -- I would hate to have your job. You couldn't pay me enough to do what you guys do. And so to cut down on your wasted time up there and to focus on more important things -- [buzzer sounding] -- I would propose that you reduce the rules, all the code enforcement, can reduce their budget, shrink them down to almost nothing. And then we can get somewhere and we can stop dealing with all this pettiness.

>> Mayor Adler: Thank you. Next person to speak is Susana Almanza.

>> Good afternoon, mayor, council members, I'm Susana Almanza with people organized defensive [indiscernible] Resources and I'm here to talk about the market value, the taxes that are being increased. As you know the new report that came out on the market data changed by appraisal area. There was a big tax shift to east Austin, which is going to

[12:41:36 PM]

continue on with the gentrification. And this shift negatively impacts homeowners who are elderly or lived on fixed income and 8% of the homestead exemption does not help when values rise disproportionately on homes at east Austin. As you can see east Austin saw a 17-18% increase while the rest of the city went from 11-14%. And how can the city help increase the city homestead exemption? Adopted fees on city county taxes on homes of those over 65 and disabled owners. And then I'm going to shift to one of the biggest cases that could be one of the possibly largest case of displacement of homeowners. Homeowners. And that's a Lenox oaks project at the cactus rose mobile trailer park which consists of 23.91 acres. Which has a total of 8.5 single family land. And where we could have at least 50 plus families relocated at the cactus rose trailer park. What we have to see is that the trailer homes, this is really not about relocation. I know you're trying to include mobile homes into relocation but this is not

a relocation plan. This is a buyout. 95% of the people own their homes there. Is there a difference it because it's a mobile home versus a home home? I don't think so. Our homes don't lose value. Mine hasn't. I'm in east Austin and it continues to grow every year. I wish I could stop it, but it grows every year. So why should the homes of the mobile home park be devalued because they're mobile homes? That is the people's homes. That's where they live at. So what we're requesting is that the land -- thereby a land set aside to relocate the people from the mobile trailer

[12:43:36 PM]

park so they can continue to live in the area and buy them new trailers or nearly new trailers. That is the things that we need to do because when you look about redevelopment of somebody who is going to make millions and millions and millions of dollars by constructing over 356 market-rate apartments, retail, through-through at a place where people call their home and now are no longer being able to -- they're not going to be able to live there anymore, we're going to have to do more. Like I said, this is not just a relocation plan. This is possibly the largest case of displacement of homeowners in the city of Austin. And I know that all of you city councilmembers -- [buzzer sounding] -- Ran on the issue of affordability and gentrification. These are the most affordable housing in all of east Austin and now we're in jeopardy of losing them. So please look at this case very closely. Thank you.

>> Mayor Adler: Thank you. Councilmembers, it is --

>> Mayor, if I may?

>> Mayor Adler: Go ahead.

>> I'd like to take the opportunity to address some of the comments that were made here at citizens communication and acknowledge certainly the people who came out to speak. First of all, very interested in terms of if there are any policy violations that we do investigate those. I do recognize some of the items that they brought forward as ones that in the past that we have looked into. And if there are others that I'm not aware of or that the department is not aware of then we certainly want to know about those. And Joe Silva over here is available to take that information. Your points of contact so that we can follow up on that. Secondly, of course, the audit results that were presented to the audit and finance committee certainly bore out some issues that need to be followed up on. I wanted to assure the council as well as the public that Carl Smart and I will be working diligently to take an aggressive lead on how we might better address those

[12:45:37 PM]

issues and concerns that were put forward. And presenting those to the city manager here shortly. And so, again, recognize the comments that were made by the citizens, but yet the department, wanted to commend the director Carl Smart as well as the department in the tough job that they have, trying to carry out and support the ordinance that's were put in -- and resolutions that were put out by council in trying to ensure a safe neighborhood and community here in Austin. Thank you, mayor.

>> Mayor Adler: Thank you. I'm showing, councilmembers, that the -- I'm sorry, yes.

>> I believe councilmember Tovo -- sorry, mayor pro tem Tovo has requested we change item 44 to a consent item.

>> Tovo: It was slightly more complicated than that, mayor, but I realized a piece of information I didn't know about this case and I have decided to recuse myself

and since I pulled this item earlier today I am releasing it back to consent for the will of the council.

>> Mayor Adler: Okay. So back onto the consent agenda in case someone wants to pull it. This was the piece of property at was 2200 Noasis.

>> Item 44c14-for the property located at 2102 Rio grande, remove items one and two and modify item 3, both the staff and planning commission recommend approval.

>> Mayor Adler: Is there a motion to approve item number 44? Mr. Zimmerman moves.

>> Zimmerman: Quick question.

>> Mayor Adler: Yes.

>> Zimmerman: What is the nature of the -- there's a yellow sheet hand out, right?

>> That's just a signed copy of the restricted covenant.

>> Zimmerman: Okay, just a signed copy? There's nothing new in here.

>> There's nothing new. Just a signature.

>> Mayor Adler: Is there a motion to approve item 44?

[12:47:38 PM]

Is there a second? Mr. Casar? Any discussion? Those in favor of -- I'm sorry?

>> Tovo: Mayor, I just want to note my recusal and I have a signed affidavit with the city clerk.

>> Mayor Adler: Okay. Those in favor please Reyes raise your hand. Those opposed. Mayor pro tem recuses herself, the others voting aye. That matter passes. That leaves us then with items 22 and 23. Item 22 -- I'm sorry. 22, 23, 24, 43 and -- 43 and then 46 and 47 will be a postponement at 2:00 P.M. It is ten till 1:00 now. Do we want to come back at 2:00? Okay. We'll be back at 2:00. We stand in recess.

[2:13:14 PM]

>> Mayor Adler: I think we have a quorum here. We have 22, 23, and then we have 24, 43 -- 22, 23, 24, 43, 46, 47. So let's first hit -- can we hit -- let's go ahead and hit the one we tried to pull before, which was 22. Environmental commission. Are we ready for that? Where are we on that?

>> Well, I'll just go ahead and move to adopt the report that came out of audit and finance. I'm happy to speak to that if necessary. If I can get a second, we can move and there may be questions. And I know that staff and also the chair of the environmental commission is here to answer any questions.

>> Mayor Adler: It's been moved passage of 22. Is there a second? Mayor pro tem seconds that. Ms. Gallo, you had an amendment you wanted to make to that when we were last here.

>> Gallo: Part 1d of the draft ordinance that says not more than three, I would make an amendment that that be changed to four. And be happy to kind of explain my rationale for that or my reason for suggesting that.

>> It needs a second.

>> Mayor Adler: Someone second that?

>> Zimmerman: I'll second that.

>> Mayor Adler: Go ahead and explain.

>> Gallo: As we have

[2:15:14 PM]

increased the number of board and commission members because of the increase in the number of councilmembers and the mayor, some of our commissions have moved up the amount of members and requirementsment the planning commission right now, they used to be at not more than three of their members could be related to or involved in land development or related activities. That has now moved up to not more than four of their members not being -- being able to be in those related. So not more than four can be involved in land development activities. I'm sorry, there's a conversation going on right behind me. It's hard to -- thank you. So I just felt like that because the environmental commission had recommended that that move up, and I believe it was on a unanimous vote, move up to five members, then -- it just seemed like four was a compromise between the environmental commission's recommendation and the audit and -- excuse me, the audit commission's recommendation. I also passed out a little chart that showed the different percentages of the membership. The maximum percentage of the commission member at the different amounts. It shows that in the past when the environmental commission was at seven and the maximum number of members were three that could be tied to land development or related activities, that was at 42.8% of the makeup of that board and commission. The current ordinance would put it down to 27% and the compromise at four would push it back up to 36%, but the 36% would still be below the 22% that it was operating at before. So it just seemed like a compromise taking into consideration the unanimous recommendation of the environmental commission to put it at five.

[2:17:15 PM]

>> Mayor Adler: Will you point out to me exactly where the change is?

>> Gallo: It would be in part 1d where it says not more than three members.

>> Mayor Adler: Okay.

>> Gallo: That would be changed to say not more than four members.

>> Mayor Adler: We have one member of the public to speak. Let's call him now. David king.

>> Thank you mayor and mayor pro tem and councilmembers. I'm supportive of this resolution. I think these changes are important, and I'm glad to know about this amendment in advance because I think -- I don't agree with this amendment. I think the recommendation of the audit committee is really important here and we should stick to that recommendation of three. I think three is sufficient representation. I mean what -- I mean what's one more position going to do that three can't already do to bring the perspective of the development community at the discussion at the environmental commission. I really think going beyond three now changes the dynamics where it untenable if we didthat and would be unfair and imbalanced. That's not appropriate for our community and not reflective of the community at large. So I hope that we can stay with three and not increase it to four and I would urge you to not approve that amendment. Thank you very much.

>> Mayor Adler: Thank you. Any discussion on the dais? Ms. Pool.

>> Pool: I can kind of lay this out for everybody and then I know Mr. Wozniak is here. I just wanted to point out that when the previous council put together a task force

on boards and commissions, some of that work was to eliminate some boards and commissions.

[2:19:15 PM]

And the urban forestry commission was eliminated and it was collapsed into the environmental commission. So in this draft ordinance you will see a number of new -- new terms and sections that refer to trees and our urban forest. What that was was just moving the duties and responsibilities of the independent commission, was joined together with this one. So if anybody had questions about why we're talking about trees in here, that's where that was coming from. It just transfers the city's jurisdiction from that commission into the environmental commission. And I think maybe the environmental officer and Ms. Morales can speak a little more to the Numbers of people that were in section D, but what I would point out is that it's not so much percentages here of the totals, but rather with the land development code says for land development commissions, they cannot have more than one-third of their members being practicing land development professionals like real estate agents or attorneys. And it may be that some of the people currently on this commission may look like they are in land development, but they may have changed jobs so that they may no longer be, but we are trying to keep -- if our land development commissions can by charter or code have no more than one-third of their membership, 33.3%, being in land development, we felt for the environmental commission that that would be -- that would be a useful metric to use here as well which is why we returned the number to three. It had been three and it was increased to five and we simply in audit and finance took it back to the existing number of three which is one-third of 11 people.

[2:21:16 PM]

So I'll let Ms. Perales speak to the actions of the commission.

>> Thank you, good afternoon council and mayor. I'm Marisa Perales, acting vice chair of the commission appointed by councilmember Garza and happy to serve. I was also on the environmental board before re transitioned to the 10-1 system and it was the environmental board that passed the resolution increasing the number of members that could be from the developer-related community. At the time we were -- we did not discuss what the limits were for land use planning commissions or other boards so we weren't aware of the limits imposed on those other commissions. We were simply going along with the idea that we were increasing our commission so maybe this is something that we should also consider doing, increasing the number of members from the developer community. I would add that when we were -- the environmental board and so we had fewer members, even though we had a limit of three members who could -- who could be appointed to the board from the developer community, as far as I recall we never had more than two. And I can't think of a time or an agenda item that came up where we felt like we lacked a diversity of perspectives. I think even with the two members that we had from the developer community, we had a really good robust discussion and all of us brought different perspectives to all of the issues that came before us and it never felt like we were lacking in that regard. So I'm happy to answer questions or provide any other even put that would be helpful.

>> Mayor Adler: Mr. Zimmerman.

>> Pool: Just the one thing I would say is are you okay with keeping it at three members?

>> I'm okay -- I'm not even sure that we have more than three right now on the

[2:23:17 PM]

environmental commission, to be honest. I don't know everybody's background, but I'm not sure that we would be busting that limit anyway.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Can you help me understand what related activities means? It says here not more than three members should be employed in land development or related activities. That's a pretty broad brush.

>> Sure. Well, we've never been tasked with policing that part of the ordinance or trying to enforce it in any way. I don't think that that's the responsibility of the environmental board. But I think that we are pretty good as self-identifying. So for instance if we have someone whose profession is hydrology or landscape architecture but they work on the types of projects that might come before the environmental board, seeking a variance or maybe a preapproval, we would -- I think that we would self-identify as being part of the developer community in that regard.

>> Zimmerman: I guess it's more, Mr. Mayor, maybe a question for council colleagues of what we would consider or do we want to define that a little better. I mean related activities, could that be realtors, people that list properties that could be developed.

>> Mayor Adler: Any more questions for this speaker before we let the speaker sit down? You can go ahead and sit down. Thank you.

>> Thank you.

>> Mayor Adler: I didn't mean to interrupt you, Mr. Zimmerman, if you weren't finished.

>> Zimmerman: I guess I'm looking for more guidance from colleagues as to how we would define related activity so it wasn't just too broad.

>> Pool: Mayor, I could possibly jump in on that and we could ask staff, they have a pretty good grasp of what that means in the context of boards and commissions, but we might want to submit that as a Q and a if we don't have staff

[2:25:19 PM]

here to answer. At this point we would just like to move forward with approving on the bylaws.

>> Mayor Adler: Mayor pro tem.

>> Tovo: Yeah, I'd like to speak against the amendment. I think it's really important that our environmental committee, our environmental commission not have a higher percentage of individuals involved in the developer community than do our land use commissions. You know, those serve a particular purpose and that expertise is useful in that context. Our environmental commission is the one tasked with providing information about water quality, about geology, urban forestry and they are also called on to make recommendations at times related to land use decisions that are going to come to council. And I think it's very important that we not have that board swayed too heavily toward the development community and I think it's -- I think it's really -- I think we've struck a good balance with three and I would suggest we keep it at that three number.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: I just have a question to make sure I'm understanding what's being suggested. So are you saying that the other commissions have a limit of three? And their language the same?

>> Pool: Yes, and I could be wrong. It's either in the charter in chapter 25 where we have our land use commissions, it specifically says no more than one-third of the members of these commissions can be in or in land development professions or related, something along those lines.

>> Kitchen: I'm just curious if the language is the same because I have the same question as councilman Zimmerman. It's pretty broad. Should be employed in land development or related activities, what does that mean.

>> Pool: That is a question that staff has been able to define for our land use commissions and we simply wanted to bring that same metric here so that not more than one-third -- and it would be people as the acting chair

[2:27:20 PM]

said who are actively employed in development, which could be real estate, it could be attorneys, it could be landscape architects. And as Ms. Perales said in the past there have been no real issues with that as far as self-identifying with the people who are on that commission. But we were concerned that the environmental commission of all of them, if it had more than a third land use professionals on it when even our land use commissions don't, that that would be an odd -- that would be an odd situation.

>> Mayor Adler: Ms. Gallo.

>> Gallo: I think there's been a couple of questions about what the charter requires and it's my understanding and hopefully maybe legal can help with this or staff, it's my understanding that the charter provision of not more than one-third being in the -- related to the development community apply only to the planning commission, not the other land use commissions. So is -- could legal verify that because it's my understanding it's just the planning commission that applies to.

>> Pool: And that's what I said, the land use commission.

>> Mayor Adler: There are two land use conditions.

>> Pool: There's the planning commission and zoning and platting.

>> Gallo: I'm sorry, I misunderstood. I thought you were saying the environmental commission was under the same guideline.

>> Mayor Adler: She was suggesting the same, it should be the same.

>> Gallo: I apologize, I misunderstood.

>> Tovo: Or less. The point I was trying to make, I would argue the environmental commission should possibly be less than that one-third because their primary focus -- it should be, looking at potential zoning cases and other code changes and other things from an environmental perspective and that's -- you know, that's the piece we rely on them for, less about the needs of the development community, I really look to the environmental commission to speak to environmental

[2:29:21 PM]

regulations and what's best for environmental concerns.

>> Gallo: So thank you for the clarification. Once again the reason for bringing this forward, it's brought forward as a compromise between the environmental commission that voted unanimously to move that number to five and the council committee that

voted to do it at three. So it felt like four was a compromise between those two recommendations.

>> Kitchen: I have one last question for our attorneys. Is the language the same between, you know, the environmental commission talks in terms of not more than three members should be employed in landdevelopment -- in land development or related activities. Is the charter the same?

>> I don't have a copy in front of me so I couldn't tell you it's exactly the same. I would have to look.

>> Kitchen: I'm just curious because those terms are so broad I don't know what they mean. Okay.

>> Mayor Adler: Any further discussion? We have an amendment to move from three to four. The number of commission members. With that qualification. Any further discussion? Those in favor of the amendment please raise your hands. We have Zimmerman, troxclair, Renteria and Gallo. Those opposed raise your hand. It's the balance of the dais. The amendment is not passed. We're back to the main motion now. Is there any further discussion of the main motion? Ms. Houston.

>> Houston: The only thing, it looks like that -- with the main motion and the number being three, that would be an even number and so I wonder what happens if there's a tie.

>> Mayor Adler: I don't think it changed the number of the people on the commission. It just said of those people on the commission --

>> Houston: So we're not adding three additional.

[2:31:22 PM]

>> Renteria: Mayor, so we still have 11 commissioners, but that's going to restrict where you can only vote [inaudible] And then the rest of them you are going to have one guy that's going to be selected from Barton springs aquifer conservation district, does that make 12, does that mean one of the appointees has to be from that district?

>> Mayor Adler: Council?

>> John steiner, law department. It would mean that one of the council appointees has to be from that district. So it would limit one councilmember in that way.

>> Renteria: So it's going to -- basically it's -- your person doesn't get in there and it's only between one and the conservation board, then you are not going to be able to appoint someone there because it has to be from the board or is that how it's going to work?

>> Well, the language of the ordinance is directory, not mandatory. So if it didn't happen, then there wouldn't be a consequence. But in keeping with the spirit of the ordinance, then one would hope that that would happen, but if no councilmember was willing to make that nomination, then it wouldn't.

>> Renteria: Okay. Thank you for the clarification.

>> Mayor Adler: Rise again, not to be a broken record, but to the degree that in the future councils can cometogether at break points and work with each other on appointing boards and commission, we would avoid some of the problems that we have in other boards and commissions now because we were doing it on an ad hoc basis. Any further discussion on the main motion? Then we'll vote. All those in favor of this item 22 please raise your hand. Those opposed? Voting no is troxclair and Zimmerman. The others voting aye.

[2:33:23 PM]

It passes. I would note that item number 46 was a executive session item which we will not be calling up so 46 can come off our agenda. That gets us now to 23 and 24, the boys club. Boys and girls club.

>> Thank you, mayor and council, Greg Guernsey, planning and zoning department. I'll introduce 23 and 24 together. And then you can take action on them individually. Item number 23 is case npa-2015-0023.01. This is for property located in the university hills/windsor park combined neighborhood planning area for the property at 4717 turner lane to designate the future land use map on this property to a civic land use. The related zoning case is item 24, zoning case c14-2015-0086. Again for 4717 turner lane. This to zone the property to community commercial, mixed use conditional overlay or gr-mu-co np for tract 1. And at first reading it was approved with multiple conditions and they have been incorporated into your ordinance that you have on the dais. I understand councilmember Houston has some proposed amendments. Those I understand have always been shared with the applicant and there's one additional condition I think that Mr. Drenner on behalf of the boys and girls club and the development department discussed which is on a

[2:35:24 PM]

separate yellow piece of paper that you also have on the dais that speaks to a 40-foot wide access easement instead of 50-foot access easement and would include that that would be provided at the time of site planning. I'll pause and let councilmember Houston I guess introduce the possible amendments to the ordinance that you have on the dais.

>> Houston: Thank you, and mayor, I would like to take these separately.

>> Mayor Adler: Let's start with 23 then. Let's move the -- do you want to make a motion?

>> Houston: I want to make a motion. I move to deny the change in the future land use designation on the future land use map from high density single-family, transportation and commercial, to civic.

>> Mayor Adler: Okay.

>> Houston: And if I can get a second to that, I'll speak to it.

>> Mayor Adler: Is there a second? Ms. Troxclair seconds that.

>> Houston: Thank you. As you all know from April, the neighborhood has been working on their neighborhood plan for, oh, I guess seven years now, I think, maybe. Since 2007. I knew there was a 7 in there. And one of the things -- they want the boys and girls club to succeed, to be successful, but they also want to preserve their neighborhood plan. And so if we change the future land use map from high density single-family, transportation, commercial to civic, that opens up a wide variety of options and people could -- if the boys and girls club don't purchase the land and it goes on the market, and so by denying this, we will be preserving the boys and girls club will still be able to build what they want to build, but in case they don't, this will be preserving the plans of the neighborhood regarding the plans.

[2:37:31 PM]

>> Mayor Adler: Ms. Houston, is this something that's agreed to by the applicant?

>> Houston: Uh-huh, I think so. Mr. Drenner?

>> It's a bit of -- let me ask the question, if the zoning change that is being requested is passed, does the -- is that going to be allowed given if there's no change in the future land use map?

>> Mayor

>> So if zoning passes today --

>> Would that be allowed without a change in the future land use?

>> It would be because we're talking about a civic designation, and a civic designation is a specialized category that is applicable to any range of zoning districts.

>> But as I understood council member Houston's request, the change would not be made to civic and would stay higher density --

>> The civic use is applicable to a range of different Flum categories and zoning districts.

>> Mayor Adler: Here's my question. If we pass the zoning change in item number 24, will it still be effective and valid --

>> Yes.

>> Mayor Adler: -- Without changing the Flum? Thank you.

>> So the boys and girls club could be built without the change in the future land use plan.

>> Yes.

>> Mayor Adler: You are okay with the change?

>> Yes.

>> Mayor Adler: It's been moved and seconded to deny the change in the future land use map. Discussion? Those in favor please raise your hand? Those opposed? 23 is not approved, it is -- well, the motion for 23 is approved denying the change in the future land use map designation. That gets us to item 24. Ms. Houston, I'll recognize you again for a motion.

>> Houston: Thank you. And so you have a longer, and this is where I think Mr. Drenner will be okay with

[2:39:31 PM]

this one because it does incorporate all the things. And I've amended the ordinance and backup to add certainly conditional uses to the not permitted use list. So I move to amend part 2, sections H and I, to make all conditional uses for tracts 1 and 2 not permitted except for group homes, class 1, which is general, and to amend part 2, sections L and M, to make the following conditional uses for tract 3 not permitted. Hospital services, limited, congregate medical offices exceeding 5,000 square feet gross floor area and residential treatment. The exact ordinance language has been provided to the city clerk and distributed on the dais. And it looks like this. There's another one that's one-pager, but this is a multi-page 1. All those that are underlined, the changes are underlined -- well, it's all in black underlined.

>> Zimmerman: Mr. Mayor, I'll second that motion.

>> Mayor Adler: Hang on a second. Do you need to read in any of the other parts of this as well?

>> No.

>> Mayor Adler: So you read the changes. I understand, that sounds good. It's been moved, it's been seconded by Mr. Zimmerman.

>> Houston: Hold on. We're going to take them separately? So not to -- too many yellow sheets up here. We've got another one yet. We're still on this one.
>> Mayor Adler: Got it. Mr. Drenner, are you okay with the changes being proposed?
>> Yes, sir, I am. Thank you.
>> Mayor Adler: Ms. Houston moves passage of item number 24 as laid out and then made an amendment to 24 which was

[2:41:33 PM]

seconded. Is there any objection to the amendment, first amendment that Ms. How often has proposed? Hearing none, it's incorporated. Do you want to make your second amendment?

>> Houston: The second amendment is amendment that's been brought forward by staff for the boys and girls club and it talks about the property, the access from -- from manor road to Turner Lane. And so I'll read it into the record. This language replaces part 2c of the ordinance that's in backup. At the time of the site plan development of the property shall include a 40-foot-wide access easement to manor road at Turner Lane. The access easement shall include a minimum of 24 feet of paved surface. The access easement agreement shall be subject to review and approval by the city of Austin development services prior to -- is that recordation? What does that mean?

>> Mayor Adler: Before getting recorded. It's been -- second amendment has been made. Is there a second to this amendment? Mr. Zimmerman seconds it. Mr. Drenner, are you okay with this amendment?

>> I am, and I don't think it's on the yellow sheet, but we were going to make a change on the fence.

>> Houston: Oh, I'm sorry. Hold on. Let me find that one. I love these that we do at the last minute, Mr. Drenner.

>> Thank you for your patience.

>> Houston: Hold on. Let me find the page. It's page 2 of six, D, part 2d. A minimum 6-foot-high solid fence shall be provided on the southern property line.

>> Yes, ma'am. Thank you.

>> Mayor Adler: This amendment comes in two parts. This is -- takes the -- closes the 40-foot-wide access easement and then makes the

[2:43:34 PM]

other changes read into the record about the wood fence. You second both those, Mr. Zimmerman?

>> Casar: Mayor, a quick question. That fence, does it still leave the pedestrian access for the kids across the -- across the property both ways? How does the fence part work?

>> Houston: I'll let Mr. Drenner talk to that.

>> Yes, sir, that's our understanding. There would be a gate for the kids to be able to get through that fence, but that back property line would have a fence.

>> Casar: Thank you.

>> Mayor Adler: Okay. The amendment, second amendment in two parts, it's been moved and seconded. Further discussion? Those in favor? Those opposed? Everybody is in favor. That gets us back to the main motion. The main motion if the record was not clear before was moved by Ms. Houston and seconded by Mr. Zimmerman. That's what we're on right now. It's as amended with the two amendments we

made. Discussion? Those in favor please raise your hand. Those opposed? It's unanimous and it passes. Thank you for your leadership on this, Ms. Houston.

>> Houston: Mr. Drenner, we've got to stop this. [Laughter]

>> Thank you.

>> Houston: Thank you.

>> Mayor Adler: We're just going to start sending all our cases to you, Ms.

Houston. That takes care of 23 and 24. Number 47. Suggestion was to postpone item number 47 until.

>> May 19th. And staff would suggest 10:00 to afford the maximum flexibility on that particular agenda.

>> Kitchen: I have June 16th down here. That's what we said earlier. Is it May 19th?

>> Mayor Adler: June 16th is what I had in my notes as well.

>> June 16th.

[2:45:35 PM]

>> Mayor Adler: That's what's shown on the changes and corrections page.

>> I'll go with that. Thank you.

>> Mayor Adler: So it's been -- is there a motion to postpone this to June 16th? No earlier than 10:00 A.M. Mr. Zimmerman so moves. Is there a second?

>> [Inaudible]

>> Mayor Adler: Who is she? Ms. Kitchen moves and Mr. Zimmerman

seconds. Okay. Thank you. It's been moved and seconded to postpone. Discussion? All in favor raise your hand. Those opposed? It's unanimous on the dais, it's postponed. That gets us to our last item which is item number 43. Ms. Kitchen.

>> Kitchen: I would like to say a few words and then we'll launch into it.

>> Mayor Adler: That's fine by me.

>> Kitchen: We'll see how the discussion proceeds, but I'm most likely going to propose that we move this forward on first reading only with the staff's recommendation that we approve the cs1 with a conditional overlay prohibiting the cocktail lounge uses. But the reason I'm going to be suggesting the first reading only is I'd like to -- as we get into the complexities of this, it will be clear, but I'd like to allow a little bit more time for the -- for which craft to work in the language of the overlay that might get them where they want to go. There's agreement amongst all parties on what they want to happen here. The difficulty is because they are working between our regulations and the tab regulations. It's difficult to -- we may not be able to reach a point that satisfies our regulations and tab's what we want to happen, the neighbors and which craft, which is a small local business, they are all wanting to do the same thing.

[2:47:37 PM]

It's simply at the location they are at right now, to allow this zoning so they can continue as a small local store selling beer, they would like to be able to sell growlers, but no one wants to have on-site consumption. We've got an agreement about what we would want it to look like, it's just trying to thread the needle on the various regulations. So that's in I'm probably going to be proposing first reading to give -- give them time to work with the -- the law of the tab regulations and maybe

come up with some language that will work. Anyway, that's all I'm going to say. Mr. Guernsey, you can explain what the complications are here.

>> Mayor Adler: We also have six speakers to speak. Mr. Guernsey.

>> Thank you, mayor and council. Item number 43, c14-2016-0027 for the property on south Lamar at 2110. The property that's requested for the rezoning is about 1,100 square feet approximately and it's a zoning change to commercial liquor sales or s1 district zoning --cs1. Staff determined there of the a map error on this property and previously in 2014 the property owner and his agent came in and saw a change of use to allow liquor sales for basically a -- a craft beer store on the property. That would require cs1 zoning. And the cs1 zoning was determined to be in error. We brought this to the attention of the property owner. The zilker neighborhood was certainly involved. We brought this to the commission. The case was initiated to cure that error for this particular

[2:49:39 PM]

establishment, the map showed actually a greater area of the property be zoned cs-1, but staff felt it was appropriate just to bring forth this particular portion of the property. It was recommended by the commission on a unanimous vote of 12-0. The zilker neighborhood association was in support of it and the owner of the craft -- which craft beer store would like the ability to sell growlers. I'm going to call up my growler expert in a minute, but basically it allows someone to come in and take a large amount of beer to go. But there are certain intrinsic requirements set by the tab about how you could get a liquor license to allow the sale of growlers for off-premise consumption. I'll call jerry.

>> Mayor Adler: This is when you fill a keg?

>> For the record I've never had a growler but I know a lot about them. If, as Mr. Against Guernsey said, they also desire to sell growlers. Gruelers are kind of a new thing for us. As far as our code goes, it doesn't address it. So we would consider -- we talked about it a lot and considered it to be offpremise because you don't drink them on the site. We agreed with liquor sales use you could take a growler away just like a can or bottle. However, tab only allows you to sell a growler in two situations. One if you are a brew pub,

[2:51:40 PM]

maybe uncle Billy's where you are making it on site and allows to leave with a can. The second would be if you are a restaurant or cafe. We would call it a general restaurant. The problem with this site is it doesn't have -- it's very small and it's not a restaurant. It doesn't have a kitchen, it doesn't have the seating, it doesn't have the parking that would be necessary to become a restaurant. To further complicate, tab has two different kinds of licenses for a restaurant that wants to sell a growler. One is a restaurant sell beer and wine, they define beer less than 4% by weight or 5% by volume. At that allows to sell beer, wine, malt liquor, which is a type of beer that has more than 5% by volume of alcohol. The long and short of it, even though we think it would be okay for the beer store to sell a growler, tab would only allow it as a brew pub or restaurant and we don't think there's room in this small site for either one of those. That's the issue.

>> Mayor Adler: Okay. Mayor pro tem.

>> Tovo: I have a couple questions. So could you -- could it be rezoned as cs-1, prohibiting all cs-1 uses and limiting it just to the sale of growlers?

>> Well, that's what we were intending to do originally before we got into this further complication was maybe not prohibit the on-site consumption if that was the issue for tab. This turned out not to be the fact. But to limit the cocktail lounge use to growlers only. They were okay with that, but once we learned more about tabc law, the only two cases they allowed is brew pub and restaurant. The issue is whether we allow the cocktail lounge use and the city would not consider the growlers to be a cocktail lounge use. We would still allow that

[2:53:40 PM]

under the liquor sales use. So I think the applicant probably has a desire to keep the cocktail lounge use just in case tab changes their law in the future, but at this point it would only be allowed under brew pub or restaurant.

>> Tovo: So you couldn't limit the cs-1 -- you couldn't add language or to a public restrictive covenant saying the cs-1 use is only in place to facilitate the sale of growl yourself?

>> The cs-1 use is -- right now they are telling nothing but craft beer and they don't have the zoning for that. That's why we're here in the first place. They said they would initially like to do the growlers, we, the neighborhoods and the owner are good with that, turns out that is a little sideways from tabc law right now.

>> Tovo: Then my second question is why are they called growlers?

>> That's a good question. Honestly I've never had one.

>> Mayor Adler: You keep saying that over and over again.

>> If my wife is watching.

>> Mr. Mayor, I would like to follow up on what the mayor pro tem was asking. Why couldn't we just say as she was suggesting -- it's not our concern what tab requirements are. That's their regulatory area. If we were to limit our language along the lines of what the mayor pro tem was suggesting, that might be -- then the applicant can do the best they can with tab with that. I mean it would be up to them to convince tab and they may not be able to, but at least we've not put extra language in there that might be difficult for them.

>> In that case I think you could say cs-1 zoning and liquor sale is permitted and we consider the growlers possible part of the liquor sales use. I think the real issue is prohibit cocktail lounges is the issue the neighborhood has and we would not consider

[2:55:42 PM]

growler to require the cocktail lounge use.

>> Kitchen: Oh, I see. So the difficulty is making it clear that there's not on-site consumption.

>> Prohibited cocktail lounge under city code that would not allow on-site consumption. However, there could be a restaurant if there were space to be a restaurant and I don't think that there is. So hypothetically if you do cs-1 zoning, you could still prohibit a cocktail lounge, but they could still become a general restaurant, sell beer and wine and sell growlers as allowed by the state. The issue is it's only 1100 square feet and there's not the room or parking for it to become a real restaurant. The real issue is whether the cocktail lounge is a real use and we do not

consider growlers to require the cocktail lounge use because we consider growlers to be off-site and the cocktail lounge is on-site.

>> Kitchen: This is why I said we would just do it on first reading and try to work through these intrakanaly cyst. I appreciate the thought mayor pro tem had because I think it's a matter of us being as narrow -- as narrow as we can be in terms of our language to still get to where we're trying to get and let the applicant see what they can work out with tab.

>> Casar: Looking into the growlers. I pulled up the entomology. Carried from a local pub to home in pales, in small pales and the term growler came about when the beer sloshed in the pale and creating a rumbling sound as the CO2 escaped the lid.

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

>> Pool: I appreciate the entomology. I am not a beer drinker but I live with one and we have been to bars that actually fill up

[2:57:42 PM]

the growler and my untilldedding it's a 64-ounce bottle or usually made of glass and comes in various sizes, shapes and colors, usually brown or green.

>> Mayor Adler: Thank you. That helps. Ms. Houston.

>> Houston: May I also know what the alcohol content is? Same as any kind of beer? Okay.

>> Mayor Adler: So I think that the -- we have some folks in the public to still speak to us that we need to hear from. So let's go ahead and go to that and then we'll come back then for a motion from you, Ms. Kitchen. The first speaker is going to be -- is the applicant here? Does the applicant want to speak to us first?

>> Mr. Mayor, councilmembers, my name is Dave Anderson. I'm representing Mr. Charlie Tames, the owner. I want to be clear, the applicant is actually the city. It's the city's own case in recognition of what happened previously. Let me pop over here and get the -- in fixing the issues that happened with the zoning previously. I think Mr. Guernsey showed you pictures of the site. One thing that I want to -- I appreciate and we've gone round and round with a lot of councilmembers about the growler issue. But I don't want to gloss over the fact that my client, Mr. Tames, while he was told he had cs-1 zoning for the entire lot, in 2006 via zoning verification letter from the

[2:59:43 PM]

city, he is only asking for cs-1 on 1100 square feet of the entire lot, which is about 5% of the square footage. So he's giving up that -- what he thought was cs-1 on 95% of the property and that's quite a give, in my opinion. We're here to ask for this. Greg - I'm sorry, Mr. Guernsey touched on this history, but I think the last couple of Numbers, dates are important. The city provided my client with a zoning verification letter that said cs-1. Several maps both printed and gis over the years showed the entire property as being cs-1. Which witchcavity -- which craft went in, it was filed as cs-1 location and, of course, tabc had to check that in order for them to give them a license. Here's just quick pictures of the zoning verification letters, old maps and the change of use site plan. At the end of the day, I think this is a fairness issue. I don't think that my client and the zilker neighborhood association, by the way, I live in zilker and not far from this, I don't think we're very far off. I think we would like the opportunity to do growlers in the future. We think that the conditional use permit process was put in place for situations like this and we think a

conditional overlay is the wrong tool to be used. But the fact remains, Mr. Tames was told he had cs-1 over his entire property. He is willing to pursue cs-1

[3:01:44 PM]

for just 5% of the property. And so growlers are not -- well, let me back up. 5% of the property. It's consistent -- the cs-1 zoning is consistent with others in the area. Any on-site consumption requires conditional use. From the cocktail lounge perspective. That's kind of where we ended up. If we were to do a conditional overlay that prohibited cocktail lounges, and the tab permit, the bg permit, requires on-site seating, the question still remains does that on-site seating automatically equate to the city calling it a cocktail lounge because there's on-site seating. There was discussion about that over the past few weeks on that issue and so we think the C.U.P. Provides the opportunity for the public review and process going forth and the conditional overlay may actually work against us in trying to solve that conundrum. I don't think this is a super confrontational issue. I think we're trying to work together. Appreciate the idea of having more time. I think time -- time is of the essence in that the existing tenant, the which craft folks, have a license, a tab license that I think they are in their 30-day grace period after expiration. So I'll let him speak to that, but I'll leave it at that. I think our desire is cs to cs-1 with no conditional overlay recognizing the conditional use permit is a good -- a good tool that would allow public oversight for any potential on-site consumption.

[3:03:46 PM]

And I'm available for questions.

>> Mayor Adler: Thank you.

>> It's really confusing. Thank you for your time.

>> Mayor Adler: We have other speakers. Do we want to go to those?

>> Kitchen: Yes.

>> Mayor Adler: We'll go to the other speakers. Thank you. Next speaker is going to be David King. I'm sorry, Lorraine Atherton.

>> [Inaudible]

>> Mayor Adler: That's fine and I see that there are several more speakers to go. I mean are the speakers that you wanted to have set in a certain order?

>> Yeah. Mr. Tames, Mr. [Inaudible].

>> Mayor Adler: Okay. That's fine.

>> Good afternoon, I'm Charlie Tames. I purchased this property about 12 years ago or so. At the time when I bought it as one of the terms of my loan, my lender required a certificate of -- I mean a zoning verification letter from the city and verify the zoning maps. When I bought this property, I paid a premium because the entire site was cs-1. I bought it under the sum shun it was cs-1. This was approximately 2006. About a year and a half later when whichcraft came into business, we had to go through the same process. We had to once again verify the cs-1 zoning. We checked the zoning maps and it was -- it was cs1.

[3:06:00 PM]

There was an error on the mapping and you can blame whoever you want, but we're trying to make it right. About 14,000 square feet. The problem is we already

have a business that opened that needs a cs-1. So I'm willing to give up cs-1 on the entire site except for if you allow Mr. Reyes to stay in business. And that's -- that's where we currently are. We need the cs-1 without any conditions to it. I feel that I've already given up plenty to get to this point. My intent is not necessarily to do a bar in the future because, one, even if we wanted to, first of all we don't have enough parking for the bar. And even if we had enough parking, we somehow bring it out of thin air, we still have to go back to the committee, what is it, the zoning committee to approve it anyway to get a permit for that. So even -- my point is that we're trying to make something right that was done wrong. I feel that I have been -- I have damages in that I paid a premium and I'm trying to work with the neighborhood on this issue, I'm trying to keep my tenant there, but I also feel if you limit -- put a conditional use on this property it would affect what we can do with the whichcraft immediately because he has a license that expires in a couple weeks. [Buzzer sounding] It's going to put him out of business. I also want to point out that this was recommended by the city staff and that it went past planning commission on

[3:08:01 PM]

consent and -- and I believe that's it.

>> Mayor Adler: Thank you very much.

>> Do you have any questions?

>> Mayor Adler: Questions? Yes, Ms. Troxclair.

>> Troxclair: So why are you not asking for cs-1 zoning on the entire site?

>> Because I -- that originally I feel that I bought the property as cs-1. We have proof, I paid a premium, and I thought, well, you know, that was my original request. I want -- I want back what I paid for, what I was verified and what I received. In talking to the neighborhood association, we came into what's somewhat of a compromise and said you know what, if you allow my whichcraft business to stay in business, I'm willing to give up 95 or 97% of the zoning in order to allow him to do their business. And now I feel like after I gave up 95% or 97% of my cs-1, I have had to hire attorneys, surveyors, civil engineers just to get to this point. And even then they are trying to put additional restrictions on my property. I feel that it doesn't matter how much I give up on the property. Had I given up instead of 95% of cs-1 98%, whatever it is they are going to come back and we want more and more and this is as far as we can go. We can't go any further because, again, even if we -- we need to keep them in business. I don't think it's fair for me to have paid and bought this under one assumption and then sorry, we made an error, and then also to have for Mr. Reyes to close his business because there was an error on this -- on the zoning. Also, as Ms. Kitchen said, if we sort of push this down the road and try to figure out the language and let us deal with

[3:10:03 PM]

tab C on the matter, I don't think that's right because once you make a decision hearings if tab C doesn't agree with us, it's going to be hard for us to come back and do what's been done right now. If you pass this without any sort of conditions to it, it allows Mr. Reyes to move forward with his business and my point was one of the concerns that the neighborhood has, they don't want a bar there, which I understand. We couldn't do a bar anyway because we don't have the parking. If we found the parking, we still have to come back to the planning commission anyway. Why

not just let Mr. Rye yes, sir and I move on, fix the error and allow us to move forward especially because he has a permit that expires in two weeks. Granted, we've been working on this thing for months now. Does that answer your question?

>> Troxclair: Yeah, it does.

>> I was trying to work with the neighborhood. To answer the question, I was trying to work with the neighborhood which is why I gave up so much of the zoning.

>> Troxclair: I appreciate that and I'm sure the neighborhood appreciates that. I guess I want to understand from our staff better why you are not entitled to cs-1 zoning.

>> I have the same question actually at the beginning, but then we decided -- you know what --

>> Mayor Adler: Thank you. Mr. Tames, thank you very much. The next speaker is Jody Reyes.

>> Hello, Mr. Mayor, councilmembers, I'm the owner and proprietor of whichcraft beer store. We've been operating for two years, just had our two year anniversary. When I applied and was granted, the site plan exemption was approved by city staff. Remember sitting in Chris

[3:12:05 PM]

Johnson's office as we looked on the viewer and whatever tools he used. As far as I'm concerned we followed the process as we knew to. We got permitted to open both from city as well as tab. We've been operating a great business since. I'll be brief, let us continue to operate our current business. Thank you. Do you have any questions? Yes, sir.

>> Mayor Adler: First, Mr. Zimmerman, then Ms. Kitchen.

>> Zimmerman: Thanks for being here. I come from some old Pennsylvania Dutch, Germans that grew up in beer gardens and considering what I do on the dais, I think I would be uniquely testified to test out those growers. Give me an invitation, I'll be there.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: I wanted to understand better about your license. When is it going to expire?

>> So we were -- we applied for and granted our tab permit. I think it was April 18 or so, 2014. Permits are two-year renewal windows so I sent in my renewal paperwork three weeks before that date and I haven't heard back from the tab C yet. Independent of everything, my per tonight naturally the date that it expired was April 18, 2016, just a few weeks ago. I'm now in the 30-day window. I haven't heard from them to that's my next step is contact them. I didn't think that the tab C would -- I didn't think there would be a hold up-and this zoning case.

>> Kitchen: But tab is not holding up your application based on what we're doing?

>> I don't know the answer to that question without contacting them. I haven't received my renewal permit from them yet nor have I had any contact from tabc

[3:14:05 PM]

since I sent in my paperwork.

>> Kitchen: But we don't have any indication they are waiting on us or anything like that?

>> I don't believe so. But I can't speak to that.

>> Kitchen: Okay.

>> Mayor Adler: Anything else? Next speaker.

>> Casar: Mayor, until we take action, the zoning remains on that site as what? Maybe Mr. Guernsey can answer that. Right now the zoning remains at the mistaken cs-1?

>> I'm sorry?

>> Casar: Right now the --

>> No, the zoning is not cs-1. The request is change to cs-1. So cs-1, which allows the beer store, the question has to do with the cocktail lounge use.

>> Casar: And that's the growler ambiguity. Got it.

>> Mayor Adler: It's out of compliance right now. Nonconforming use right now. Any discussions? Mayor pro tem.

>> Tovo: I guess my question is does the renewal application for tabc pick up on changes that the city might have determined have occurred in the last several years? Eye just emailed that question to the office. I'm waiting for an answer. I would believe, and this is guess on my part, but I don't think that comes into play because otherwise we would be checking every two years. I think it would only be if there were new license, change in ownership or brand new license. I don't think we are asked to check the zoning for the renewals, but I've sent the question over.

>> Tovo: That's good news around city zoning. I'd have to go back and apply for a new tabc certificate. That did not happen in the renewal paperwork, therefore, I didn't believe that this case would have any bearing on that. I attached my check if that means anything.

>> No, that's good to here. Because I think that does suggest that we have a little bit of time to sort out from the city's side how to handle it in a way that works for you and

[3:16:07 PM]

works for the city as well.

>> Mayor Adler: Okay. The next speaker is Lorraine Atherton.

>> Kitchen: Wait, I think Mr. Drenner was --

>> Mayor Adler: Mr. Drenner, I'm sorry.

>> Thank you. Steve Drenner on behalf of the applicant. I think if anything, we've proven councilmember kitchen's point, this is complicated, with the two sets of regulations. Without belaboring the point, we come today, I think, with a very fair proposal, maybe less than what we could have asked for with regard to the cs-1. I really do think it's a fairness issue and an opportunity to right a wrong. We are not intending at all to open a bar, and we're not intending to circumvent more public process if, in fact, in the future, somebody decided to open a bar, because you do have to go through the conditional use permit process in order to create a cocktail lounge. But what we are asking for is a straight cs-1 on this small portion of the property, and we'd like -- obviously, we had a -- when this first came up, we had a variety of questions from our client and so forth. I think this takes care of the problem. We don't have to go examine legal remedies or anything like that. We can take care of the problem with a -- with this solution, with the zoning case. But we are asking for straight cs-1 without conditions. Thank you.

>> Mayor Adler: Mr. Drenner, I have a question.

>> Yes, sir.

>> Mayor Adler: Given the events that gave rise to where we are, and the fact that if there was a cocktail use, the applicant or

[3:18:08 PM]

the property owner would have to come back for a conditional -- I'm inclined to support this cs-1 on that portion of the tract.

>> Right.

>> Mayor Adler: But my colleague has said let's approve something similar to that initially and give time to see if there's another way out of the box that can put the applicant or the business owner in a position where they're having to pay some potential risk associated with an ambiguity. Is there any downside to giving that time to see if there's a different construct that would similarly leave the applicant in a position where there wasn't a risk associated with an ambiguity?

>> Mayor, I appreciate the suggestion from councilmember kitchen to allow us to continue to move this forward, but try to find a solution that is -- creatively allows everybody to feel good about the result. We thought that the -- that solution was cs-1 without a conditional overlay, because we did have to come back through a conditional use permit process if it was going to be a cocktail lounge. We're happy to look at other solutions. I think we will -- if it goes forward on that basis, we'll use the time to do just that.

>> Mayor Adler: Okay. My interest would be to make sure that the property owner isn't living with risk associated with an ambiguity, but, councilmember kitchen, since there doesn't appear to be a reason why not, if there's a creative solution that can come out of this that leaves your client in the same position, then I would support that, too. So I'm probably going to --

>> Appreciate it.

>> Mayor Adler: -- Vote for that additional time if that's what the motion is.

>> Thank you.

>> Mayor Adler: We have an additional speaker.

[3:20:08 PM]

Are we ready? I have Lorraine Atherton to speak.

>> Holy, council. I'm Lorraine Atherton, here for the zilker neighborhood association zoning committee. I'm the one who sent you the early morning e-mail laying out our position. We found this error -- you should be aware, we found this error because other businesses in the neighborhood wanted us to help them get the same deal that this property was getting. And so we started looking into it. How did they get -- get all these liquor-based businesses on this site without cs-1 zoning? And we found, lo and behold, that they didn't have cs-1 zoning, that there was a zoning error. We don't want to get into how that error occurred, or when, but there is a fundamental fairness issue for all of the other businesses along south Lamar. I'll let David king talk to but astounding number of alcohol-based businesses along south Lamar. There are restaurants and legitimate brew pubs that are meeting code, meeting the tab, and it's fundamentally unfair to allow this business to get special privileges based on an error. And I'll -- we'll get bill Neil

[3:22:08 PM]

to talk about the precedent that we're worried about on that. So we've been working for more than a year with the owner and city staff to try and allow this -- to correct this error and allow this business -- this is the only business that's taken advantage of the cs-1 zoning on this site, in the 12 or some-odd years that it's been -- supposedly been

there. This is the only business that's taken advantage as a cs-1 zoning, and so our goal is to allow them to continue operating under the permit that they got from the city. And that does not include growlers, whether the tab is going to allow it or not, it does not include any on-site consumption. So if you're looking to meet the staff's goal of correcting this error, all you need to do is to give them the zoning that they need to continue operating as a liquor store. [Buzzer sounding]

>> Thankses hold on one moment. Hold on one moment. Is dive piper here?

>> Did Dave show? No, Dave did not show.

>> Mayor Adler: Is bill Neil here? You have another three minutes if you'd like.

>> Bill would like to talk separately. Yeah.

>> Mayor Adler: We'll let bill do that then. Bill, you want to come up? Bill Neil? David king is on about deck.

>> Thank you. I'm bill Neil. As for the precedent, this case would stand for the city will change zoning to councilwoman to a staff error. And we don't know what the staff error entailed. As Lorraine said, we don't want to get into it, but this is not

[3:24:09 PM]

the first time this has happened on south Lamar. About six years ago, a wine bar -- an attorney sent a letter to a staffer in the zoning department arguing that the back part of that property was not sf-3, it was properly cs. And the city official changes the zoning map to conform to the letter that he got from the lawyer. Somebody in the neighborhood caught that error within about a week, so there was no permitting or opening of a business based on this new zoning, unlike this case. So I'm concerned about the lack of control over the zoning map. I mean, this should be a secure -- I guess you can call it a document, as secure as a bank account, and it just seems to be a point of vulnerability, and this -- so the precedent could be that this sets -- offers up as an example, absence model where, if a landlord -- a property owner can get somehow the zoning map changed, the city will change the zoning to conform to the error. And, I mean, there are a lot of reputable businessmen in this town, and Mr. Thomas, I think, is one of them. But it's just -- it's a loophole, and we've seen loopholes have been taken advantage of in the past. So that's something -- it's a policy issue that I think has not been mentioned much in this case. We always run into this. I mean, with the carport issue, I mean, you can point to specific cases where, you know, there's a compelling case, but it would undermine the mcmansion ordinance. This is -- presents the same issue. So as a policy matter, I would suggest -- I would ask that the city council approve the zoning with a Co. Just do the minimum.

[3:26:09 PM]

And I think it's very unfortunate that Mr. Thomas paid a premium for this property. And we -- it's unfortunate, but there's also a policy issues that I thought should be expressed, so ...

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Next speaker is David king.

>> Thank you, mayor, mayor pro tem, councilmembers. You know, I want to make it clear that, you know, we do support the cs-1 zoning with the conditional overlay we've mentioned, and that, you know, allowing them to sell growlers, too, we do not oppose that. I just want to make that clear. But I do want to point out that there is a

good reason why the neighborhood is concerned about more cocktail lounges on south Lamar. The stretch between Barton Springs Road and Ben White has 334 businesses that sell alcohol for on-site consumption. I'm concerned that the increased consumption will result in more alcohol-related accidents that injure or kill motorists, pedestrians and bicyclists. The American statesman indicated zip code 78704, which includes south Lamar boulevard, had alcohol sales totaling \$474 million between 2004 and 2013. The second highest of any zip code in Texas. The second highest. It also reported that Travis County bars and restaurants sold more alcohol per person than any county in Texas. And, you know, Mayor Leffingwell, even he acknowledged this was a problem. And I know you all share that concern, too. I know you share that concern. He said I believe this is an issue that we all -- that we, as a whole community must address [inaudible], and residents of any community need to be responsible for their behavior and actions, including the actions that we're going to take here to approve zoning for cocktail lounges. Not this particular case but other cases. Please, I hope that you will direct the city manager to initiate a code amendment that requires a minimum separation of

[3:28:10 PM]

1,000 feet between new CS-1 rezonings and existing CS-1 zoned properties in the city. Other cities have such requirements. And I think this will help inhibit the concentration of bars and cocktail lounges on transportation corridors. That's what we're seeing here. Seems like you would not want that many bars, on-site consumption, on a transportation corridor where people are going to get right in their cars and drive around. It doesn't make sense. So, again, we do not approve the CS-1 zoning, as long as it includes conditional overlay prohibiting cocktail land, and we don't oppose growlers. Thank you.

>> Mayor Adler: Thank you. Does the property owner want to close?

>> Well, in closing, I want to make sure that -- there's two issues here, that we are here because of a zoning matter. It was a mistake by the city. We're trying to fix it. I have given up a large portion of my property to CS-1. I've met with the neighborhoods to come up with a -- an agreement or -- to work this out. This is not a tabac matter. This is not a growler matter. This is a zoning matter, and this is a matter about doing -- fixing a mistake that was done by the city. And to me as a property owner, I've already said it, we -- you know, we need the on-site consumption, not because we want a bar, because we don't even have parking, anyway, but just to let Mr. Reyes -- unfortunately, those are the -- the tab rules or laws are set. We're not going to go back and change them now, but the way they're structured right now, we immediately the on-site

[3:30:10 PM]

consumption for his growler business and for him to stay open for business. And that's what I want to convey. To me, this is not as much a growler issue, it's more a zoning issue, around to correct an error.

>> Mayor Adler: Thank you. Okay? Thank you.

>> Mayor, if I may, I'd like to just briefly try to walk you through it one more time. The tab allows growlers to be sold in three different licenses. One's called a BP for brew pub. That's irrelevant here. One is be, for beer with alcohol less than 5%, that is not the type of beer they sell. The only other type of permit they can have is a bg

permit which allows the sale of beer over 5%. The bg permit requires adequate seating under tabc law. It doesn't define what adequate is, it just says adequate seating. Then we switch to city law. If you have a property selling alcohol and has adequate seating, it can only be one of two things, either a restaurant, which would require -- which can sell beer and wine, as you know, but one, it has to be over 50% food sales, and two, it has to have a kitchen, three, it has to have adequate parking. The other that has seating is a cocktail lounge which does not require the kitchen or the 50% rule. And if the Co was added, a cocktail lounge would not be permitted use. I still think there would be an issue with the parking in this case for a cocktail lounge, but that's kind of the issue, tab requires seating and for us seating means it's no longer a liquor sales use, in other words, it's no longer a beer store, it's either a restaurant or a cocktail lounge because of that requirement. However, tabc laws, we do consider to be off had of premise consumption because of course you're leaving with the growler and not drinking it there. So we and the tab are crosswise. It seems the seating is really the crux of the issue.

[3:32:11 PM]

I hope that helps.

>> Mayor Adler: So we could grant this zoning, limit it just to the building, the applicant couldn't put a restaurant in there or a cocktail lounge without coming back for a subsequent approval. We could do the cs and the building. We've done everything that would enable that to happen under our law. The applicant is still going to have to work out with the tab, maybe or maybe not, whether he's in compliance with their rules, even with the cs-1 zoning, but that's not our issue.

>> If you do the cs-1 zoning, the restaurant would be a permitted use, I think the issue would be probably the parking space and the kitchen, and then if you did cs-1 without the cocktail lounge restriction, I think there would still probably be a parking issue, but that aside, you're right that there would be another approval called a conditional use permit which would require the approval of the planning commission and would be appealable to city council.

>> Mayor Adler: But that problem the applicant has whether we go cs-1 or not, they just have that problem.

>> The F they were to be a cocktail lounge, yes, and they'd have the parking problem no matter what.

>> Kitchen: And my question is, what is the -- the stated purpose of the conditional overlay is to provide some level of assurance to the neighborhood that they're not going to have another cocktail lounge. And that they're not going to have another place where there's on-site assumption. So what are -- what tools do we have to provide that kind of assurance for the neighborhood.

>> The only assurance would be a conditional overlay prohibiting the cocktail lounge use.

>> Kitchen: The conditional permit doesn't provide that --

>> The conditional use permit, if they did apply for a cocktail use, it would trigger the need -- you can put additional restrictions on that use, the planning commission should, such as growlers only or must close at midnight or whatever conditions they come up with,

[3:34:11 PM]

but the need for the conditional use permit would only be triggered if they were applying for a cocktail lounge use.

>> Kitchen: If they applied for cocktail lounge -- cocktail usage, could you deny it?

>> The planning commission or council on appeal could deny that request.

>> Kitchen: But you wouldn't have any guarantee of that.

>> No, you would not.

>> Kitchen: Okay. You can't do a cup right now, you have to wait until they apply.

>> Yeah, they don't have the zoning needed to do a cocktail lounge use so they wouldn't then be able to apply for that.

>> Kitchen: Okay. I'm ready to make a motion. I would still like, because of the complications here, I would like to make a motion to approve cs-1 on first reading, bring it back to us within a week, that provides us a quick amount of time just to work through this one more time, and it may be that there's no place that we can go, and we have to bring it back here next week and vote on second and third reading, but I would like to provide a little more time to see if there's a way to think through this, so that's why I'm making that motion.

>> Mayor Adler: Motion has been made. Is there a second? Mr. Zimmerman second that.

>> The staff recommendation?

>> Kitchen: Yeah, which is thecs-1 on the property, the whichcraft property we're talking about right now, with understanding -- I want to make this clear -- that I want to leave -- I have a goal of protecting the neighborhood because of the kinds of concerns they've got all along south Lamar from future use, not from whichcraft's use. So I just want to see if there's any other thing that we can do between now and then.

>> Mayor Adler: It's been moved and seconded. Any further discussion? Ms. Houston.

>> Houston: I have a quick question. I heard the owner of the property say that he's willing to give up 95% of the rest of the property to get this littlepiece. Why can't we just zone everything cs? Because I thought I saw some parking in the front part of that.

>> Well, the property is zoned

[3:36:11 PM]

cs today. The question is on the whichcraft portion, cs-1.

>> Houston: Oh. Okay. Because I thought we could solve the parking problem by using the parking in the front that I saw, but -- okay.

>> The building is old and was not built with adequate parking.

>> Houston: Okay.

>> Mayor Adler: It's been moved and seconded to approve on first reading only, the staff recommendation. Any further discussion? We'll pull it -- it'll just come back next week, I guess?

>> We can bring it back next week.

>> Mayor Adler: Sounds good. Those in favor, please raise your hand. Those opposed? Those abstaining? It's unanimous on the dais.

>> That concludes it. Thank you.

>> Mayor Adler: Council, I think that is everything on our dais, so unless there's anything else, we'll stand adjourned. I'm going to be reaching back out to the council, the hope of doing the retreat and the manager's decision as we talked about in mid-

may does not work, so we are now moving to mid-june. I've talked to the manager about this we're going to get you some additional days. [Council adjourned.]