

## City Council Regular Meeting Transcript – 11/03/2016

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[10:08:45 AM]

>> Mayor Adler: Are we about ready? I think we have a quorum here present. Before we begin the meeting today, before we call it to order, we're going to begin with invocation. Today we have with us rabbi, who is I guess the new president of act. Thank you for joining us. Would everyone please rise.

>> Thank you. Good morning. With everybody standing and with perhaps some of us having a shorter sleeping period, I kind of feel like we should start with take me out to the ballgame a little bit.

[ Laughing ]

>> Honorable mayor, distinguished council, respected guests, you don't have to love baseball to have appreciated such a magnificent game last night. From both the cubs and Indians, the athletic ability of the players, decision-making of the managers and vision of the executives all converged to deliver a grandeur and a grace that somehow illuminates our own efforts as we think now about the -- significance and meaning of our actions. As we look to move forward next Wednesday after the election, after the results are in, both in our miracles and in our challenges, we admit that we are living in unprecedented times. We like to think of Austin as a radiant example, a place where our good ideas are hotly and respectfully debated, a place where our imagination and our dreams are implemented for the good of all of our citizens as we grapple with transportation, demographics, inevitable growth, affordability, and so much more.

[10:10:59 AM]

And now, inspired, perhaps, by the world series, we can rekindle our hope as we see that there are always new and creative ways to solve seemingly intractable issues. We can see that there is always a third way, a way forward, if you will, inning by inning that is respectful and compassionate, and tolerant of our errors, and appreciative of our unique talents. Another doesn't have to be wrong for us to be right. May you and your loved ones be granted good health and the inspiration to cultivate wisdom as you conduct yourselves. May you be blessed to see the good in what you do, especially in the most difficult of days. And may your inspiration offer direct benefit to others so that they may cheer you on. We need each other. Players, managers, and executives. And with positive actions all around us, may we continue to prosper our beloved city of Austin. May this truly be god's will. Amen.

>> Mayor Adler: Thank you. All right. I'm going to call to order today's meeting. Today is Thursday, November 3rd. It is 10:10. We are in the city council chambers, 301 west second street here in Austin, Texas. Let's take a look at the agenda beginning with the changes and corrections. Item number 29.

[10:13:00 AM]

This should read authorize execution of a six-year interlocal agreement with Dallas county, Texas, acting through the southwestern institute of forensic sciences of Dallas for forensic services, not to exceed \$3.6 million total contract amount. Item number 41 is postponed until November 10th of 2016. That's the small cell network issue. Item number 66 is the spay/neuter item. Without objection, we'll call that for no earlier than 4:00 P.M. This afternoon. Item number 74 and 75, at their 4:00 P.M. Time certain. We can't take an action at that point, but people should know that there's going to be a request to postpone item 74 and 75 to 12/15, December 15th. The items that I'm showing being pulled today on the consent agenda and the consent agenda runs from item one through item 63 inclusive. I have item number 6 being pulled by Mr. Renteria. I have item number 26 coming up at 1:00 P.M. On champion, no sooner than 1:00 P.M.

[10:15:09 AM]

I have item number 41 being postponed. And then we have item number 53 being pulled. I pulled that item. That's the historic landmark commission item. Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mar. I'd like to pull item 29 for a point of order question that I have.

>> Mayor Adler: Okay.

>> Zimmerman: So rather than get into that now, I want to talk about the posting language and a couple of other things.

>> Mayor Adler: Okay. Anything else to be pulled? Item six, 26, 29, 53. All right. We have people to speak on --

>> Mayor, I don't know that I want to do this as a time certain, but I would just ask if item 53 could come up perhaps right after the champions item later in the day. We have some people who are probably going to hit.

>> Mayor Adler: I'm fine. Let's go ahead and call that for 1:00 P.M. As well.

>> Tovo: Or 1:30, 2:00, whatever.

>> Mayor Adler: Any of those would be fine with me. Do you want to pick a time?

>> Tovo: How about 2:00?

>> Mayor Adler: All right, no sooner than 2:00.

>> Tovo: Thanks.

>> Mayor Adler: For item number 53. Okay? We have some -- yes, Ms. Gallo.

>> Gallo: Item number 27, approving the cancellation of the November 8th work session.

>> Mayor Adler: Yes.

>> Gallo: In listening to the work session this week, were we going to have some discussion around that, or are we just voting to cancel it?

>> Mayor Adler: Unless someone pulls it, it's just going to be --

>> Gallo: I don't necessarily need to pull it, but I want to make a comment at an appropriate time, if you want that to be after citizens communication, that's fine.

[10:17:10 AM]

>> Houston: On item 27 I thought we were going to also talk about November 10th. At the work session we said that we would talk about canceling the work session, but we could have conversation about what we were going to do on November 10th. I'll pull it if I need to so that we can have that conversation.

>> Mayor Adler: Okay.

>> Houston: If I can get somebody to agree with that.

>> Mayor Adler: Okay. So let's pull that. My sense is because we're only noticed to cancel the meeting on November 8th, I don't know that we can take action to cancel the meeting on the 10th.

>> Houston: I'm sorry, I thought that was the conversation we were trying to have on Tuesday and we said we couldn't have that, but we could have that conversation today.

>> I think to the extent that the conversation on canceling the work session on November 8th affects your meeting on November the 10th, you can talk about it in that context, but you can't today take an action to cancel November 10th if you wanted to and I wouldn't go into the substance of the things, just as they reflect on whether or not you're going to cancel the work session.

>> Houston: Thank you.

>> Mayor Adler: That's what we said.

>> Tovo: That makes sense. I want to ask if we were -- how would we ever have that conversation if that's our next council meeting?

>> Well, that's a really good use of the message board -- I mean, the work sessions were created for you to talk to each other outside of the council meeting. The message board is the other way that you can do that if you want to have conversations.

>> Tovo: I got that part. But if there were a will to cancel an upcoming meeting but we don't have a meeting between now and then we can't take action on that.

>> In the times that that has happened in the past you have used the message board to say I'm not going to be there. At some point we know there's not going to be a quorum.

>> Tovo: Got it. Okay, thank you.

>> Mayor Adler: Okay. All right. We have people signed up to speak with us today on the consent agenda.

[10:19:16 AM]

The first of those is Mr. Peña, Gus peña. 25, and 36.

>> [ Off mic ]

>> Mayor Adler: Yes, sir. Nine, 22, 24, 25, and 36.

>> Thank you, sir. Appreciate it. Yes. Good morning. My name is Gus peña, native east austinite. Item number 9 had to do with a proposal to upgrade and repair women's locker rooms, etc. This item -- I spoke to -- I spoke about this issue about 2-3 years ago also, and I'm glad it's finally coming to fruition. Facilities for our people who are -- for example, firefighters, whatever, needs to be improved. I hate to go into a dilapidated bathroom. I'm glad this is going forward. Number 22, also approved by a lot of residents to interact with tcesd for emergency purposes. That's appreciated very much. And number 24 is having to do with funding for counseling and social service. Mayor and councilmembers, when you go to the city of Austin, I don't know if this is related to that or not, but we've got some shabby interaction between counselors, social workers, in front of the veterans, the veteran gets disrespected a lot. That has to change. We approve this funding but it really could do a lot for improvement, mayor, you know, between housing authority/city of Austin and the veterans.

[10:21:21 AM]

A lot of them are getting the royal shaft and that ain't good. They come out there, they don't want to go back there to get more services. Anyway, we're supportive of that still. And item number 25 is funding for the provision of educational skill-building services not to exceed 1 million, etc., etc. One of the things that I'd like for you all to think about -- we spoke about this even when there was another mayor, eci. That acronym has gone away somewhat, but early childhood intervention. Y'all spoke to the issue

similar to that in the last council. We need to have our children prepared even for pre-k. We see children not receiving services. If you get prepared for pre-k you're going to do great in school. It not, like a lot of our people of color, hispanics, African Americans, are not getting due diligence. I'd like to see monitoring. I'm a former teacher, at ACC and Johnston high school. I would like to see monitoring on this issue, make sure it is compliant and it's going to the right situations, the people and the kids. Anyway, that's all I have to say, but, again, you know, remember the people, the poor, the needy, the less fortunate. It ain't getting done out there, mayor. And also my veterans. You talked about possibly canceling the 10th. You know, that's a Marine Corps holiday. There are going to be people visiting from other parts of the country to talk about veteran's day. Thank you very much. Have a good day.

>> Is John Jeffreys here? Mr. Jeffrey. Jeffreys? Okay.

[10:23:22 AM]

Sally van sickle. I have you speaking on item number 49.

>> Good morning. My name is Sally van sickle, I'm the district 9 appointee to the commission on seniors and chair of that commission's age-friendly Austin work group. Thank you, mayor Adler, mayor pro tem tovo, and councilmembers for giving us time on Tuesday to review the age-friendly Austin action plan with you. The commission on seniors, Austin up, aarp and other partners worked diligently to develop this plan. Austin has always been considered a vibrant city. Approval of this action plan will help us to maintain that reputation as vibrant and innovative at the same time our median age continues to move upward. With your vote to approve the plan today, we will review our designation as an age-friendly city and ensure that Austin remains at the forefront of the movement to become a truly age-progressive city. Thank you.

>> Mayor Adler: Thank you very much.

[ Clapping ]

>> Mayor Adler: Is Wesley galakas here to speak to us? And I have you speaking on item number 34.

>> My name is Wes, I represent pacific company in the state of Texas. And I appreciate the opportunity to comment on number 34. It's a product technology and services company that's providing valuable solutions to a number of industries, but my specific focus is on the environmental industry where we work with state and local governments in a supply of classic carts and containers and technology solutions. I understand the city is making a significant, positive investment on the curbside organics program, with the goal of diverting material away from the landfill.

[10:25:30 AM]

Our company has designed a container for this application compliant with industry standards, put through rigorous testing, maybe most importantly, it's designed specifically to keep rodents and animals out of containers. It's valued highly by the city of Toronto, we're rolling out 500,000 of these there. The city is using the hgac contract to execute this purchase, and as an active member of the hgac contract, and in the service of enhancing this program and providing the city with the best possible option at the lowest possible price, I am requesting that the opportunity to provide a proposal for this curbside container program. Thank you.

>> Mayor Adler: Thank you very much.

>> Mayor Adler: Next speaker would be Anthony.

>> Good morning, mayor, counsel, my name is Tony, and I'm speaking on item number 22, which is the agreement for dispatch between esd two and austin/travis county ems. I want to remind council this is another item that has to do with coming up with an agreement with an esd as to how to provide medical services. It's important we're holding the balance of what our medical authority has in mind for

the integrity of this process and pay close attention as it develops. There is a 30-day notice where ems management can pull this agreement, and I hope we'll be hearing from our medical director who has been here enough time to hopefully land a balanced and informed opinion of what we need for integrity in the county.

[10:27:30 AM]

In the case of esd two, making sure we're under the same medical direction, with same protocols, mitigating liabilities to our community. So with the larger interlocal agreement, there is only an agreement for basic life support medical direction. What this particular proposal is not all that detailed, but it is for advanced medical life support. So that could be an issue in the immediate future. I thank you for your time on this matter and hopefully we'll have our medical authority medical direction addressing you in the future. Thank you.

>> Mayor Adler: Thank you. Those are all the people that I have signed up to speak on the consent.

>> No. There's another item. 51, no, yeah. If you'll refresh your speakers you'll see.

>> Mayor Adler: Okay.

>> Mayor Adler: Jay wasso. Sorry I missed your late signup.

>> No worries. Good morning, mayor and council. I'm very pleased to speak on behalf of resolution 51, I'm the president and founder of the Austin city up consortium, we have something with more than ten global companies, more than 15 innovative Austin startups, numerous higher education groups, nonprofit organizations and government departments, agencies, and entities all united behind the vision of creating a smart city infrastructure in Austin that helps us identify civic priorities, collect data to help address those priorities, and develop the collaborations and the projects needed to pursue those efforts and attack those issues.

[10:29:46 AM]

And so we were very pleased about this resolution. It's completely in line with the thinking of national, state, and local efforts to empower cities to use data technology and analytics to solve the toughest challenges and to bring the best minds together to do it. We are very in support of this resolution and look forward to seeing it enacted.

>> Mayor Adler: Great. Thank you very much. You guys are doing great work. Do I have anyone else signed up to speak on the consent agenda? Okay. First, is there a motion to approve the consent agenda? Mr. Zimmerman moves. Is there a second. Ms. Kitchen seconds. Ms. Gallo, do you want to announce?

>> Gallo: Yes. I need to be shown as being recused on number 16, 17, and 58.

>> Mayor Adler: Okay. Mr. Zimmerman, do you want to read into the record?

>> Zimmerman: Thank you. I want to be shown abstaining from items 2 and 3, against item four, against 7, against 25, abstaining from 8, abstaining from 28, abstaining from 30 through 33, against 34, abstaining 35 through 38, abstaining from 42, against 44, abstaining from 45, against 47, abstaining from 49 through 52. Thank you.

>> Mayor Adler: And just so that I'm caught up, item number 45, which is the joint use resolution is something that's been handed out on the dais. Is that the posted language for this, or does it need to be amended to be this before we vote to approve it?

[10:31:53 AM]

>> I think it's a friendly amendment to mayor pro tem's resolution and I believe our staff have worked together on it.

[ Beeping ]

>> Tovo: I'm not immediately answering because I remembered a few of these edits. I just need to check to make sure this is the most recent one. I think we can pass it on consent if I just have 30 more seconds just to double check.

>> Mayor Adler: While the mayor pro tem is looking at that, is there any discussion or debate on the dais with respect to the consent items? Ms. Kitchen.

>> Kitchen: I just have a comment.

>> Mayor Adler: Go ahead.

>> Kitchen: Should I go ahead? I wanted to comment on item number 49 which is the age-friendly Austin plan. I wanted to give a shoutout to the commission on seniors. I see them sitting there. In a very short amount of time they have done significant work -- significant work supporting seniors in Austin, and this age-friendly Austin plan was a lot of work and is a very good plan and a road map for us on city council and for Austin in general. And so I just want to say thank you very much for y'all's hard work. And I have one other if I should go ahead, or . . .? Okay. So on item number 51, which is the smart cities road map for the city of Austin, I wanted to thank Austin city U.P. I know that they'll be helpful and important partners for the city as the city moves forward with a road map for a smart city project.

[10:33:55 AM]

I also wanted to mention that it's the intention of the language that, you know, that language includes a number of different areas to look at. It's the intention that all areas of the city's operations be looked at including affordable housing. And then also all areas of potential partnerships be looked at. So that would include, you know, universities and foundations and nonprofits in terms of potential partners and funding sources. So, thank you.

>> Mayor Adler: I'm especially excited about this resolution. I think there's been a lot of really good work that's happening in the city on smart cities across lots of disciplines like Austin U.P. Deserves a lot of credit on the nongovernment side for trying to pull together the various players and kind of having an inventory place as well as a place to set priorities from the city side will be really helpful. Any other comments? Yes, mayor pro tem.

>> Tovo: Okay, thank you for that minute. So the -- just to be clear, yes. This is the most recent copy. And I just want to point out that the first two changes were actually initiated by Travis county. And this was probably in the version that posted by Monday. So the first two bracketed items were feedback that Travis county provided us with. The third, thank you, councilmember Garza, for your input. That was initiated by councilmember Garza. And then in the last be it resolved, that is a combination of the first four sentences were, again, changes recommended by Travis county. And then two sentences later was a change recommended by councilmember Garza. So it's actually -- I just want to be really clear -- because we did work with Travis county to get their feedback, it is -- it embeds all of those changes into one that makes it a stronger document all around.

>> Mayor Adler: Is there any objection to this amendment being made to item number 45?

[10:36:02 AM]

Hearing none, it's so amended. That is now amended as it appears on the consent agenda. If there's no further discussion, those in favor of the consent agenda please raise your hand. Those opposed? It's unanimous on the dais with Ms. Troxclair off. That's the consent agenda. What about the zoning consent agenda? Are there consent items there we can move through?

>> Mayor Adler: There are none. Only champion. Then that's going to be called later on the day. Yes, mayor pro tem.

>> Tovo: But, mayor, we could take up the nonconsent items from the council committees. Which begin at --

>> Mayor Adler: We could. What I want -- let's go ahead and do this briefing on dripping springs and then we'll pick up the nonconsent items from the committee. Okay?

>> Good morning, mayor, councilmembers. Mike, assistant director in the watershed protection department. We're here today to give you a briefing on an issue that's gaining increasing public attention, that being a draft wastewater discharge permit from the state environmental regulatory agency on behalf of the city of dripping springs.

>> Mayor Adler: And to that end, I want to recognize, is the mayor pro tem of dripping springs here with us this morning? I think so? I think the mayor pro tem and the secretary are both with us here this morning, so, welcome to our meeting. Please proceed.

>> Okay. Again, the topic today is a draft wastewater discharge permit in the amount of 995,000-gallons a day. It's been issued by the Texas commission on environmental quality for the city of dripping springs to allow discharge of that amount into onion creek.

[10:38:09 AM]

I want to say two things before I introduce technical and legal staff to give you the full briefing, one of which is that we're engaged as city staff in this issue for a couple of years. We feel very collaboratively, and good discussions with the city of dripping springs, our neighbor. But we're guided on -- in our actions and discussions by two things. We have a set of previous council resolutions on similar wastewater discharge permitting cases in which the council had expressed opposition to this type of situation situation. More importantly, we're approaching this from half a century or more of science, and our sophisticated tools that allow us to quantitatively evaluate impacts of the proposed discharge permit for other scenarios that might be explored with dripping springs. With that I want to introduce Chris Errington, environmental engineer with watershed protection. He'll do the bulk of the briefing. And then we also have Patricia link with the legal department to talk about the permitting process itself.

>> Good morning, mayor and council, I'm Chris, an engineer with the city's watershed department. This is a map of what we refer to as the Barton springs zone, 369 square miles of area that under Normal conditions provide water to Barton springs. The recharge is on the right-hand side of the map. The left is the contributing zone, outside of the hashed area. This is the area where water collects and as it flows over the recharge zone, flows underground to Barton springs in the upper right-hand corner. The quality of water drives the quality of water that recharges the aquifer and what comes out of Barton springs.

[10:40:11 AM]

I want to use this map to make a very important point in terms of the jurisdictional -- the proportion of area controlled by the various jurisdictions in the Barton springs zone. Shown as a pie chart -- and again, thinking about the importance of the contributing zone, the city of dripping springs and its etj controls a larger area than the city of Austin in the Barton springs zone. It's critical that we will able to work cooperatively with the city of dripping springs since they do hold some measure of authority over such a large percentage of the contributing zone in ensuring future protection of water quality in Barton springs. As you can see by this picture of onion creek, the water over these plateau streams is very clear. These are rock bottom streams. Some light penetrates to the ground. They've evolved to be sensitive to nutrient addition. Even the most highly treated wastewater effluent has concentrations of nutrients that are orders of magnitude higher than the background concentrations in creeks like onion creek. So here's

one of the nutrients we're concerned about, nitrate, a form of nitrogen. In the bar chart you can see the green would be the concentration in dripping springs effluent relative to the blue bar, concentrations in onion creek.

>> Zimmerman: That's a great slide. Before you go on, could you tell me what the effluent is that the city of Austin puts back into the Colorado river next to the dripping springs effluent, the 1.88?

>> Substantially higher, an order of magnitude higher.

>> Zimmerman: The dripping springs is higher?

>> No, sir the city of Austin's effluent would be less stringently treated than the proposal.

>> Zimmerman: Is that going to come up later?

>> Absolutely.

>> Zimmerman: Thank you.

>> If I don't, please remind me. So, again, as we add these concentrations of nutrients, just like adding fertilizer to our lawn, as we add them it causes the excessive concentrations of nutrients do dramatically degrade water quality.

[10:42:25 AM]

We're here talking about wastewater permitting. I want to provide a regulatory perspective as well. Wastewater disposal is permitting by our state environmental regulatory agency, the Texas commission on environmental quality, the tceq. There are two basic flavorings of managing wastewater. You can treat raw sewage and take that effluent and spray it on the ground. That's a land application permit, the picture from the top. That is what the city of dripping springs currently does to dispose of their treated effluent. The lower picture is the other alternative, a direct discharge permit. So you take your raw sewage and treat it and discharge it directly to a water body, what the city of Austin does in the Colorado river, downstream of Austin for the majority of our effluent. And it's critical to think about the differential impact with land application, the plants and the soil add another layer of treatment and the water is not getting directly into the stream. The asimtive Kay passtive of the lapped relative to the capacity of the discharge is different. When we discharge wastewater, even highly treated wastewater into the streams, we get massive algae growth. These are three streams influenced in various ways by the discharge of treated effluent. What's very different about the Edwards plateau, which is where the city of dripping springs is proposing to discharge their effluent and where these pictures are taken are the underlying geeologic and soil characteristics. These are small, shallow, sometimes intermittent streams, very, very clear water, low natural concentrations of nutrients, which is different from where the city of Austin discharges our water. That's a massive river. Hill country streams will go dry during dry periods. The flows in the Colorado river have not stopped flowing since we've constructed the dams. And because it's on the blackland prairie, with different characteristics than the underlying streams, it has a very different capacity.

[10:44:29 AM]

So the Edwards plateau streams are more sensitive to nutrients than the blackland streams and the Colorado river, where we discharge our effluent. The city of Austin has previously intervened in tceq permitting matters on several occasions. Here are some examples. So ensure that we are being protective of water quality. One you may remember is the first proposed discharge permit in the Barton springs zone for the bell terrace subdivision. It was ultimately resolved through a lengthy settlement process and a case hearing. I'm going to talk about that on the next slide. But therefore been other ones. Jeremiah was proposed to be the first land application facility over the recharge zone. That was resolved by a settlement agreement. And the land was later purchased and incorporated into our water quality

protection land program. The city of burnet was proposing a major expansion that by our quantitative modeling showed an impact to an adverse water quality back to lake Travis and our drinking water supply. We actively engaged with the lower Colorado river authority and the city of burnet again to develop a mutually agreeable solution that would enable the city of burnet to expand their facility but not adversely affect the quality of water in lake Travis. I mentioned belterra because it has established a precedent for wastewater disposal beyond what has happened up to now. All of wastewater disposal in the Barton springs zone, until belterra occurred by land application. Belterra asked to be the first unconditional discharge permit in the Barton springs zone. They proposed a discharge to the headwaters of the bear creek. Through a settlement agreement, there were a lot of parties involved. Some agreed to settle, others carried it through a contested case hearing. The combination of those two resulted in these very severe limitations on what belterra can actually do. So they can only discharge if they cannot otherwise land apply all of their effluent or if the flow in bear creek is above a specific threshold so that there's enough dilution of the effluent such that it doesn't adversely impact bear creek.

[10:46:40 AM]

There were additional limitations on nitrogen added to the permit as a result of the settlement agreement. And there was also monitoring required so that we could validate that there were no adverse impacts once belterra eventually discharged, so before and after monitoring to see. And if we did see a problem there were mitigation triggers added to the agreement. I think the good news is that's been a very protective agreement, since 2009, belterra has never had to discharge to bear creek. In 2015, the city of dripping springs made an application to the state seeking a permit, authorization to unconditionally discharge 995 gallons of wastewater. We evaluated it with our models, and as a result, if they were to operate the facility in the way that the permit does certainly allow them to do so, it would cause dramatic excessive algae blooms in onion creek. It would impact -- directly impact the city of Austin conservation, as part of our water quality protection land program and degrade the quality of groundwater recharge to the Trinity aquifer which receives recharge from onion creek. And depending on the mechanisms by which the city of dripping springs operated, it could adversely impact the Edwards aquifer, 19 miles down the recharge boundary. It would be very different from what has been established as the new precedent for discharges in the contributing zone. So it's not as protective as the belterra permit, thus setting effectively a new permit -- precedent for unrestricted discharges in the Barton springs zone. The city of Austin watershed department and our friends in the law department have been actively engaged with the city of dripping springs and our regional partners to evaluate this action since 2014. We did successfully pursue a petition to tceq to change the rules to make land application more cost effective, specifically for the situation that the city of dripping springs and other similarly situated folks around the highland Lakes or in the Barton springs zone are facing.

[10:48:55 AM]

So tceq did approve that rule-making. They've drafting the new rules, which hopefully will be available to anyone who chooses to take advantage of them by next summer. We've been communicating directly with dripping springs and attempting to assist them in identifying alternatives that may be less damaging to water quality. As Mike mentioned, and I think I mentioned, we did develop a calibrated, advanced water quality simulation model. So we can quantitatively assess the impacts. And that has been validated based on information, site-specific data. So that model is the most advanced method to predict the impact, it's certainly more advanced than the methods that tceq is using. We've already provided two comment letters to the state on the application in an attempt to share that modeling and

that information with them. We've been in communication with the downstream affected landowners, regional partners, including the lower Colorado river authority and local groundwater conservation districts, Barton springs and hays Trinity. I haven't mentioned water quality protection lands program, and I want to single out onion creek because it is very special. We have -- the city of Austin has expended about \$165 million in voter-approved bonds to acquire conservation easements or to purchase land in the Barton springs zone to protect the quality and quantity of water there. There are 11,000 acres permanently protected with the onion creek watershed that have been purchased at \$66 million. So we have a vested interest. We have a conservation easement just downstream of the proposed discharge location. Onion creek does provide recharge directly to the Trinity aquifer as well as to the Edwards aquifer, and those two are connected. Of all of the 49 watersheds that the city of Austin currently monitors in the Austin area, onion creek has the best water quality currently and provides the most water to Barton springs than any other individual source.

[10:51:02 AM]

>> Assistant city attorney. The next steps in the process is a public meeting that the state and the city of dripping springs will conduct next week on November 10th. Additionally tceq staff will respond to comments from the public meeting, but also any other comments that have been submitted while the application has been pending. And that is in approximately January 2017. The commissioners may be poised to take action to refer the permit -- the draft permit to the state office of administrative hearing for a contested case hearing, which is when parties that disagree with the draft permit challenge that permit and an administrative law judge will take up the issue. And that would be in March if the commissioners take action then. An administrative law judge conducts a contested case hearing and issues the proposed decision. And that involves the parties -- the tceq staff, the applicant, and also parties that are concerned about the draft permit or have raised issues with the draft permit itself. The administrative law judge is like a mini trial and they will go through all the evidence and issue a proposed decision for the agency to consider. After this decision is issued the commission will then take up the proposed decision and make a final action on the permit. And then after that process the parties, or a party or other parties may appeal a final decision to district court. And that at most will result in a remand back to the state agency if the district court does not think that the permit was supported by the evidence. As this process moves forward, city of Austin staff will continue to be involved and will continue to evaluate additional alternative scenarios, continue discussions with dripping springs, use data and the information provided by dripping springs to validate their interest in beneficial reuse, and that actually is -- they would be taking the treated wastewater and using it for land application in their parks also within subdivisions and things of that nature.

[10:53:05 AM]

Additionally, we will prepare new comments for the state and request a contested case hearing and collaborate with the downstream landowners and our regional partners.

>> Mayor Adler: Thank you. Back to the dais. Does anybody have any questions or comments? Ms. Pool.

>> Pool: Thanks to our staff for preparing this presentation and for -- folks from dripping springs coming in. I was curious -- I was reading some of the backup on this, and I know that there is an option for -- in fact, the city of Austin stores its effluent as part of the processing on treating the effluent. Is that something that dripping springs is looking at? What options have they -- between the two? I'm sorry. I mean, they've offered two, one land application and one is to deposit it in the creek, which I agree seems like a bad idea.

>> Right.

>> Pool: So there are other interim steps that seem possible to be taken. And what's the status of those?  
>> Again, the city of dripping springs currently manages all of their effluent by land applying it, so they don't discharge. They're seeking permission to discharge. They have made representations that they are looking to beneficially reuse as much of the effluent, just like we, the city of Austin do take advantage of the authorization provided by chapter 210 of the administrative code that says once you've treated your effluent either with -- your sewage with a discharge perm or land application permit, you can reuse it. That's good for water conservation, it keeps raw water in place, it limits what you would have to potentially be discharging if you had a discharge permit. That is why we wanted to seek the rule-making at tceq was to provide greater flexibility. The impediment as we perceive it to expanding land application, I think what we've heard from the city of dripping springs is land is expensive and it's hard to get big chunks.

[10:55:08 AM]

You need a lot of land if you're going to dispose of a lot of effluent. Rather than expanding their land application facility they perceive a need for the flexibility that a discharge permit would provide. You could operate -- receive a discharge permit and maximize your beneficial reuse and if you had enough storage so those wet times when you can't land apply that effluent you have a place for it to go other than onion creek there is a way that that facility could be managed effectively, in a no discharge condition, or in a condition when discharges occur, water quality impacts are minimized because of the dislouis THA of the -- I may have veered away from your question.

>> Pool: Is belterra using the storage?

>> They do autely use storage. Belterra is obligated to land apply a specific percentage of their effluent and they beneficially reuse the other. They have on-site storage. Having that on-site storage and continuing to beneficially reuse their effluent as the subdivision expands is why they've never had to discharge.

>> Pool: Does dripping springs have a plan to mitigate should they get approval to discharge into the creek and the effluent causes the type of algae bloom that we're concerned about, and how expensive and extensive would that effort be, and would it ever return the creek to natural state?

>> Once these nutrients get into the system there's no taking them back. There is nutrient spiraling. The nutrients, if we think about algae growing and consuming the nutrients, it gets cold outside or something happens, a flood dislodges the algae, the nutrients are rereleased into the water column. They continue to move downstream. It is difficult and expensive if not technologically infeasible to remove nutrients in the stream. That's why we focus so intensively on making sure that these permits are issued the right way the right time. The permit as drafted by tcu currently would allow dripping springs to unconditionally discharge the full 995,000 gallons per day, so they are trying to do the right thing to maximize their beneficial reuse program.

[10:57:22 AM]

We have a huge investment in our water quality protection lands, Barton springs and the Edwards aquifer are critical economic and drinking water resources for central Texas. Barton springs is a critical cultural resource for us here in Austin. So the situation that we're in, it's a verified scenario. So we're communicating with dripping springs. We're trying to validate via engineering analysis the representation they've made so we can ensure the way they want to operate the facility, which is their choice and they need to do that, is as protective of water quality as we can possibly make it.

>> Pool: So are the people who live along the creek downstream aware of this application for discharge, and what sorts of ramifications might they see, and what legal avenues might they have in order to challenge degradation of the streams?

>> Yes, ma'am. The majority of the affected landowners are in the city of dripping springs etj, downstream of the discharge location just like the conservation easement that we hold just downstream. So they would be adversely impacted by an increase in the growth of nuisance algae in onion creek. They also withdraw drinking water from the Trinity aquifer, either folks do it individually with wells, or they receive water from the dripping springs water supply corporation, which also withdraws water from the Trinity aquifer. That recharge to the Trinity aquifer occurs in part directly downstream. So their drinking water could be impacted directly by the effluent if there is -- without a total nitrogen limit in the permit, there is the possibility that the nitrate concentrations would be elevated to the point where they're impacting the quality of recharge to the Edwards aquifer and Barton springs. I'm going to let Trish answer the question in terms of the avenues available.

[10:59:28 AM]

>> The landowners have been participating in this process. Some of them are represented by lawyers and various entities. They have the ability to ask the the ability to refer to state office of administrative hearings for the contested case hearing. They can participate in the comments and also the public meeting and let the state and the city know their concerns.

>> Pool: So can you characterize support or opposition to the discharge application?

>> The landowner we've been in communication with generally are to the direct approach. They are not -- they are not unsupportive of beneficial reuse but of the direct discharge itself.

>> Pool: Right. One last question on the legal side. Would they be parties of interest then if the effluent is discharged into the creek and it causes the algae bloom and affects the drinking water downstream, do they have legal recourse and what would that look like?

>> They can participate as interested parties in a contested case hearing, but either the commission or the administrative law judge will have to make that determination about whether they are affected or will be affected by the application of direct discharge. And so they will have to make that decision during that process. Are considered an interested part they would be able to participate in the contested case hearing and have the ability on the appeal the commission's decision if they disagree with it.

>> Pool: How long a time does that sort of process take?

>> Belterra took us two years, close, with settlement and -- because it is a full-blown trial in the sense there's both -- all the parties get to provide witnesses, experts. There's a lot of testimony, there's a lot of science work that goes on and so there's discovery and the whole process so it takes time.

[11:01:33 AM]

>> Pool: If that were the case, is there a legal recourse to have an injunction to stop the continued discharge of the effluent into the creek if it was determined it was fouling the waters downstream and there was a case filed?

>> If a permit is issued, I cannot speak to what they would be able to challenge, but they would also -- they would need to let the state know if they are seeing adverse effects.

>> Pool: Okay. And then would the city of Austin be officially responsible for any -- financially responsible for any of the cleanup or -- I mean what role would we play?

>> After a permit would be issued, we would not have any role unless there is a settlement agreement that gives us some responsibilities. In belterra some of the entities have some responsibilities under that settlement agreement to do some monitoring and things of that nature, but generally speaking if the

agency issues the permit as drafted and there's no settlement agreement, then the city has no financial responsibility.

>> Pool: Are we able to ask for monitoring authority?

>> We do actively monitor onion creek.

>> We have our Normal monitoring programs. The belterra one is unique in that it is specifically tied to that settlement and that specific discharge, but we do have monitoring. I think the clean rivers program monitors that water.

>> Pool: Okay. And I guess it's just I just want to return one more time to my question about the storage since that is working so effectively in belterra. Why or do we know why dripping springs hasn't chosen that as an approach?

>> The city of dripping springs is seek to go maximize their reuse. They provided us some information about their future reuse program and so what we're trying to do is incorporate that into effectively an accounting system so we know into the future given rainfall and would their ability to reuse effluent or otherwise store it be such onion creek is preventable -- we're in that process now.

[11:03:42 AM]

>> To answer your question, storage is going to be an issue regardless of the path chosen by dripping springs. I say that because if they are going to do beneficial reuse, they will store some so they have that water when they need it. So storage I think will play a part in whatever avenue or whatever the result is just for the simple fact that they want to do the beneficial reuse.

>> Pool: Okay. Thank you. Thank you all very much.

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

>> Zimmerman: Thanks for being here and I'm going to make an easy speculation. We do not have on this city council sufficient understanding of the complex biochemistry and hydrology. You touched on interesting points. There have to be some of your colleagues, engineers, working with dripping springs. Have they been invited -- obviously they wouldn't be doing this if they thought the creek would blow up with algae blooms. Have they been invited and talk with us?

>> I can't speak to whether city of dripping springs has been invited to speak with city council. We have been in discussion with their engineers.

>> Zimmerman: I think it would be extremely helpful because we lack the understanding to comprehend all the factors to have some of those engineers come and talk to us. Hydrologists, people with specialty so we can have a back and forth conversation. That would be very helpful.

>> To your point, we have been monitoring in onion creek since the early 1990s so we have an extensive data base, we have an understanding, have collaborated with the united States geological survey to assess the impacts of effluent specifically on Edwards aquifer streams. And calibrated it with site specific information. And so we are making our -- our involvement in this process has always been to provide the best available science to all interested parties.

[11:05:49 AM]

>> Zimmerman: Great. And I believe you on that point, I just want to have the other group here so we can have an intelligent conversation between experts. Thanks.

>> Mayor Adler: Ms. Garza.

>> Garza: I appreciate as much information as we can get, but I don't think I need to be a chemist to know essentially it's treated poop being asked to be put in our water. This kind of goes off councilmember pool's question about exactly what the options are, and my office was provided

numbers that show that the city of dripping springs has t-lap permits that exceed -- at a capacity that exceeds what they are using now.

>> Yes, ma'am.

>> Garza: They have permits that are almost five times what they are using now. In addition to that many of the surrounding developments have over -- the numbers is over 1.2 million gallons per day capacity. And so I'm trying to understand, I understand the area is growing and the need for wastewater treatment and if there was no other option, but it seems to me that there is an option and they have it now. So I'm trying to get a better understanding -- is it cheaper, is that basically what it comes down to - discharge it?

>> The difference between land application and direct discharge in this instance would be land application would require under current rule the city of dripping springs to own and operate or to effectively own or operate a large amount of land, larger than they currently have. You have to have a more expensive treatment plant when you pursue a discharge permit in the Barton springs zone, but you don't have to have that land which we know to be very expensive. To your original question the flows to the current dripping springs facility are approximately 75,000 gallons a day. Their current land application permit has a final phase volume of 38,500 gallons per day. They are seeking authorization to discharge up to 995,000 gallons per day.

[11:07:54 AM]

How dripping springs projects their growth into the future and choose to management it is their business and we're not attempting to manage that. There is an alternative land application. We've tried very hard and have been successful at convincing tceq that that option should be more flexible to accommodate growth as it's occurring but that's not what the city of dripping springs up to this point has chosen to take advantage of.

>> Garza: Okay. Thank you.

>> Mayor Adler: Mayor pro tem.

>> Tovo: I have an additional question and thank you to my colleagues, councilmember pool and councilmember Garza, for their really important questions. Can you talk a little about the rules process? As you sort of touched on, this was the rule that we agreed to pursue with dripping springs was intended to provide more flexibility so it's not clear to me -- I did have the opportunity to meet with representatives from dripping springs yesterday and they said it was a matter of time and interest in moving forward. But from your perspective will the rules process address and provide them with more flexibility that would allow them to have those other options?

>> Just as a minor point of clarification, we did pursue the rule making as part of a regional collaboration and involve the city of dripping springs and other cities as well as wastewater utilities. The petition was made by the city of Austin individually so the city of dripping springs has taken no Normal action to endorse or oppose that rule making, but they participated in it.

>> Tovo: Thank you.

>> The rule making based on the best available information we have -- we submitted the petition to tceq commissioners in March or at least they approved it in March. They are moving through the rule making process. The information we have from tceq staff is that the draft rule would be presented to the commissioners sometime maybe in January. If we track that through the Normal rule making process, that would mean the rule would be potentially available by sometime next summer, summer 2017. It's a -- there is time involved in making application to the state. It can be a six-month to a one-year time line just generally in the application process to get to the draft permit.

[11:10:01 AM]

And so the information that we've heard from dripping springs as well is that the time until the new rule is -- it's either too long or they are not interested in taking advantage of the rule to manage their flow in that facility and they want the flexibility that a discharge permit would provide.

>> Tovo: In terms of the timing though, it seems if they are not using their current capacity, they are not up against that limit at this point.

>> That is correct. So they still have excess capacity in terms of the actual volume of wastewater that's coming to the facility relative to the volume they are permitted to treat via land application by the state. So the timing issue is -- it's a decision by the city of dripping springs and their engineers.

>> Tovo: All right. Thank you. Thank you for your work on this issue. I appreciate -- I appreciate the thoroughness but also the approach to protect our water conservation lands as well as water quality in this area.

>> Thank you, mayor pro tem. I'd like to if I could make a partial response as well to the question of storage. Our colleagues from dripping springs wanted us to underscore that they have in fact put a certain amount of storage on the table, so to speak. They have contracts with a number of entities that provide both for an amount that those entities, these future subdivisions, for example, would take in terms of beneficial reuse and there's also storage being considered in that. We have that information and we're including that in the scenarios that we're modeling, essentially with them and for them to some degree. And I would say that the model itself is one of those, you know, I hate to call it a black box, it's a whole lot more sophisticated than that, but there's volumes of wastewater, the amount of reuse that occur, the storage, the level of treatment and the flow in the creek are all variables that we can analyze. And in various combinations could be adequately protective of water quality in our opinion.

[11:12:02 AM]

Another way to say that is we have a numerical way to say what is acceptable water quality in terms of nutrient inputs and unacceptable from a water pollution perspective.

>> Mayor Adler: I also want to endorse the work you all have done at the staff level. I think it's been real extensive. My hope is that in this process we'll be able to find some commonplace to end up, but the -- the interaction between the city of Austin and dripping springs I think has been real open and real extensive. The -- I want to underscore the rule change that went to the state. It was probably been now a year or so since we convened all of the mayors and technical people in central Texas, 60 people to try to move forward with the first regional environmental act which -- significant of which can't I underlined enough. At the time it was not being presented as necessarily the answer here and no one was buying off on that being the answer here, but it was intended to provide an additional tool that could be considered here and certainly other places, but I think the city should be really proud of that process as well as the continuing conversations and the openness with our neighbor. That does not mean we always agree with our neighbors, but I think that the constructive and open, transparent nature of those communications is real important.

>> Thank you, mayor, and we appreciate the involvement you had in getting that process convened.

>> Mayor Adler: Further discussion? Ms. Pool.

>> Pool: I just wanted to close by saying I appreciate all the work that's going into this. I sat in early on from the conversation and following it since I guess last summer, but I just want to point out the significant investment that the city of Austin has in the various assets and if they are harmed by the -- by the effluent being discharged into the creek, I don't know how the city of Austin gets back to the place where we are today where we are not polluted, we are not harmed.

[11:14:30 AM]

And I would say probably the resolution of that would be some kind of payment, some kind of presidential payment, but that doesn't -- financial payment, but that doesn't get the environment back to the state before it was sullied. So I really hope that the conversations that are continuing and the outcome of these discussions and the case will be for a no discharge into the creek just because I don't see any way to unpollute once it's been done and particularly in drought conditions if we happen to have a discharge into the creek and it's dry, that would just do even more damage than if there were some water in the creek. Thank you for the work that you all are doing. Please think in terms of further down the road, in larger terms than just the financial impacts. We've got real natural systems at play and at risk here and we can't save them once they are lost. So thank you all.

>> Thank you.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Just one closing remark. I want to remind everyone the city of Austin is releasing sewage, effluent or as my colleague councilmember Garza says treated poop, the city of Austin releases that into the Colorado river. There's a technical difference as we were told between, you know, the tremendous volume of the Colorado river compared to a relatively small amount of effluent that's being released, a very important point. The difference in these streams as was pointed out, and you can measure this with ntu's, the turbidity unit, how you measure the clarity of water. So the Colorado river is relatively murky, these streams relatively clear so there's a big difference. The flow rates are different. So it's not apples and Oranges, but we are releasing -- city of Austin is releasing treated water into the Colorado.

[11:16:33 AM]

Dripping springs is trying to do the same, but that's not an apples to apples comparison. We need more education on this complex subject, in my opinion.

>> Mayor Adler: Okay. I think we're done with the briefing. Thank you very much for your time. That gets us back to the agenda. Let's see if we can knock some things off. I'll note the mayor pro tem not on the dais. Let's see if we can address item number 6, Mr. Renteria, the boardwalk construction contract. Are you ready on item number 6?

>> Renteria: Yes. The reason I pulled this, we have been waiting for a fishing pier on the north shore especially at that location, and we got really excited years ago when they announced they were going to put a fishing pier there right by the ih-35 bridge there where it crosses Colorado river. And we thought we had soon some concrete pouring at that time and so, you know, this -- this issue was presented to us in a way that -- that if we supported building the Broadway there, that also we were going to get a fishing pier on the end. And then we found out later on that they were going to build it on the south side. And their explanation was, you know, we don't have the capital metro and the restrooms, which is right on the other side we have a big, huge restroom there.

[11:18:35 AM]

Rebecca Bayne Johns where the seniors are at, they have access to the lake and a lot of these seniors are in wheelchairs and we have two bus lines that go through there, the 21 and 22, I believe, that parks right across the street from Hernandez street. I just wanted to find out how come it was moved. To the south side.

>> Good morning, my name is Jorge morales, assistant director or project engineering and public works and we're managing this project. And the reason the project moved to the north side, it was tied to a council direction back in 2012 that was attached with the questions and answers that we provided.

These constraints were discussed at the time and the resolution was that to tie it to the boardwalk project and that's what we we did, proceeded in that direction.

>> Renteria: That's not what they were telling us in the neighborhood. When all of that came up, they never mentioned about it was connected to that. The only way it was connected to it was because of the bond elections, you know, but that's about it, you know. The promise that they gave us on the north side was totally it was going to get built there. I've seen some of the answers that you gave me and I mean we have the same thing over on the north side, we have restrooms, we have ramps there. Seniors go down and use that. I just don't understand that.

>> I understand your concerns, councilmember. These discussions, like I said, happened earlier in 2012 and the direction was provided and we did tie it to the boardwalk project because of that region. This is the final step in closing out that contract.

>> Renteria: Yes, I realize that and I never did have the answer given to me when we came up before that, the council a couple years back about it.

[11:20:39 AM]

And we're very disappointed, let me tell you the truth that we are very disappointed especially in our side of the community because it's very hard to go into the other side to fish off of those ramps -- those little there at the broad walk, the areas promising to be fishing piers and then to try to take it away, but I'm going to make sure it doesn't go away. You know, if you think you are going to build that handicapped fishing pier over there and you are going to be able to close it, I'm going to oppose that because that's not the agreement that you made with the citizens of Austin. So I just hope that next time you all keep your word.

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

>> Zimmerman: Thank you. I did oppose this boardwalk bond contract 2010 bond and I remember distinctly the boardwalk was put in at about 14.5 million originally when it was presented voters in the educational materials, it was around 14.5 million. And I think the original contract ended up being about 20 million instead of 14.5.

>> Hold on.

>> Zimmerman: Just to get some history.

>> Good morning, Rolando Fernandez. The contract originally for the boardwalk was awarded for \$20,682,000.

>> Zimmerman: How was that reconciled with the public information released by the city it was going to be a \$14.5 million project?

>> I don't have that answer, sir, in terms of --

>> Zimmerman: I don't either. That's why I asked. I'm going to vote against this because it goes back to how -- we can't trust the information that we get in our bond elections. But I studied this thing pretty intensely and I did oppose it and we argued that about one-third of the 2010 bond, it was sold as mobility and one of the biggest single projects turned out to be the boardwalk and the lake.

[11:22:42 AM]

Which has nothing to do with solving our traffic congestion mobility problems. I'm going to be voting against it but thank you for being here.

>> Mayor Adler: Further discussion?

>> Renteria: I just want to say the park foundation did come up with I think over \$3 million that they did give to this project so there was some money that the foundation did contribute to this project. But I was just disappointed that they did -- they moved it. I don't have any problem with the project itself, it's

just the location of what they did because we've been looking for a fishing pier for years. We've been asking for one now over 20 years and it seems like we never get one. That's why we were so excited when they first announced they were going to build one there because we had a lot of seniors. Our big plan with Ibj, a lot of seniors in wheelchairs and they would have loved that location and you can see why we're upset.

>> I would like to clarify, this was a partnership and it was granted funded and that was part of this fishing pier project. And in 2012 they did provide a letter of support of relocating it and connecting it with the boardwalk so the conversation occurred in those times.

>> Pool: I don't know if it's possible, but I'd be happy to join with my colleague, councilmember Renteria, to investigate looking into locating a new fishing pier on the other side of the river. I mean if that was something that was appreciated and used and hoped for by our residents, I'd be happy to work with you, Mr. Renteria, on trying to find some funds possibly in the next bond election package so that we can, you know, make it possible for the fishing to happen on the north side of the river as well as the south.

[11:24:43 AM]

>> Absolutely. I think what we're trying to say, we're just being responsive to council direction. When we see that in if future for a pier on the north side, we would be happy to work with that for residents on the north side of the river.

>> Pool: Thank you.

>> Mayor Adler: Ms. Houston.

>> Houston: I just wanted to acknowledge the fact that things happened in 2012 neighborhoods don't know they've happened, things have changed, and that's a disappointment. I'm familiar with Rebecca Bains tower and the elderly like to fish, it's very peaceful. There's a disconnect that when a council in another era made a decision that is impacting folks there now. Councilmember Renteria, I'm willing to work with you because there's going to be increased density on that site and people want a garden and they want to fish. And so I think it behooves us to try to figure out how we can do something on that side of the river as well.

>> Mayor Adler: Is there a motion to approve this item number 6? Ms. Pool makes a position. Mr. Renteria seconds. Those in favor?

>> Zimmerman: I would like to briefly speak against the motion for 30 seconds. I'm going to be voting against. I would like to ask my colleagues, you know what, this project is up to \$22.3 million now according to the backup information. I want to ask my colleagues to vote no, and I would support a resolution to redirect that 600,000 for the fishing pier on the north side that my colleagues have been referencing, I think we should take authority and do that and I would support a council majority to use that 600,000 to put a pier on the north side for what I've heard from colleagues.

>> We have three people --

>> Mayor Adler: We have three people that have signed up to speak on this. Is Mr. Peña here?

[11:26:45 AM]

Is Dennis alberarl here wish to go speak? You wish to speak? Is John Jeffries here wishing to speak? Okay. Those are the public speakers. Let's take a vote then. Those in favor please raise your hand. Those opposed? Mr. Zimmerman voting no. The others voting aye. Ms. Troxclair off the dais. Thank you. Champions we have moved. We have the work session issue which I think will be a discussion between us. Let's do the APD forensics lab so those folks can move on. Item number 29.

>> Zimmerman: I had a question, a point of order to raise. We just had an experience where one of our constituents, Mr. Brian Rogers, had to sue the city of Austin for violation of open meetings act for lack of inclusion of critical information. This to me looks like another potential way the city could be sued because we are changing the agenda item language and essentially being asked not to vote on a 12-month contract as was posted, but instead to vote on a 6-year agreement. It's a change in the posting language. And so I'm going to go ahead and ask for an opinion, Mr. Mayor, from legal and from you as to whether this is a legal posting because I cannot understand how it could be legal to change the posting inside the 72-hour deadline and change it from a one-year agreement to a six-year agreement. That's a very substantial difference in the posting language.

>> Council, the language was changed in the posting but the outcome is really the same.

[11:28:47 AM]

The amount of money is the same, \$3.6 million. It went from a -- what was a 12-month with four year extensions, four one-year extensions to six-year contract. It's essentially the same out come amount of money and amount of time. And so we think for that reason that it would be okay. The change came I believe from the city of Dallas and that's why we needed to make the change. And we obviously wanted to make sure that everybody understood about it but we think it will be fine.

>> Zimmerman: Let me just comment on that. If it's the same, then there was no need to change the language. Why was the language changed?

>> We change it to make sure it's absolutely clear what happened. It's a six-year contract so we wanted to be clear about that. Again, the amount of money is the same and the amount of time is actually the same, but to be as clear as possible, we

>> Zimmerman: Mr. Mayor, what I heard is that we cannot vote on this because there's been a substantial change and then the agenda item was changed inside the 72-hour deadline. I think it's not legal for us under the open meetings act to be voting on this.

>> Mayor Adler: So the way I would rule on this, I'm going to find it to be germane and consistent with the notice because I had this come up and it had said a 12-month contract with five 12-month extensions, I would have found an amendment to make it a six-year contract to be germane and within the bounds of making an amendment. So I am prepared to proceed. This has been moved and seconded. Those -- Mr. Casar.

>> Casar: I don't think it's been moved and seconded and then I have something to say.

>> Mayor Adler: Is there a motion?

[11:30:47 AM]

Mr. Casar.

>> Casar: I think the more important points about this item is that it's clearly an important first step. Folks in the community and we all learned about in my view what is an unacceptable number of rape kits in our backlog just here in the last few motion and I think the updated numbers from yesterday, and I appreciate the police department getting those to us is that we have 722 sexual assault evidence cases pending with 588 of those having safe kits from about 2014 through now. So we're still in that situation, but I appreciate that over the summer the police department acknowledged and recognized the -- how serious that issue was and came up with some dollars for us to start clearing all of those kits as quickly as possible and as many as we can before the lab reopens. And my hope and commitment I think from the police chief during those sessions was to get them all done, so today's action I think takes us a step closer. I don't think it's clear yet to the department and to us how much closer it gets us there and I think the challenge is for those people in our community, for those survivors of sexual assaults who are

still in our backlog, I think they deserve to know how -- when we are trying to get this done. So my understanding from the police department and from the city manager's office is that it's important for us to pass this today so we get one step closer and that within four weeks we can have a report back on what our goals are for clearing the entirety of those sexual assault kits that are in backlog. And I think that's the case and considering that that's the case, then I'm, you know, proud to vote for this and happy for us to continue to move forward.

[11:32:48 AM]

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I would still like to move that we change this back, this item back to the original language of authorize execution of a 12-month interlocal agreement with Dallas county, Texas. If I can get a second on that motion.

>> Mayor Adler: Is there a second? It fails for lack of a second. It's been moved and seconded. Is there any further discussion? Those in favor of this item --

>> Casar: I want to check with the city manager. You don't need additional direction, you can just get that report if four -- report in four weeks?

>> Yes.

>> Casar: Thank you.

>> Mayor Adler: The manager indicates that's correct.

>> I'm good.

>> Mayor Adler: Further discussion? Those in favor please raise your hand. Those opposed? It's unanimous on the dais with Ms. Troxclair gone. Thank you. What about the scheduling item, item number 27. This is the item to cancel the work session next Tuesday. Is there any discussion on this? Ms. Pool makes the motion to cancel the work session for next Tuesday, seconded by Mr. Zimmerman. Is there any discussion? Ms. Houston.

>> Houston: Thank you, mayor. The discussion point is that there are some -- there is one item that was postponed to November the 10th that I would have been able to ask for a postponement on if we had had a work session. But if we're going to postpone the work session, I understand now from Ms. Morgan that I just need to post that on the agenda. But then I'm not sure what the ramifications would be for the annexation hearing that we postpone the second and third hearing until the 10th.

[11:34:59 AM]

So I need some assistance, some guidance from staff on how would we handle that annexation issue.

>> Sue Edwards, assistant city manager. Councilmember, by state law the first reading for those annexations has to occur by the 10th. If they do not, those annexations will die. And they will not be considered or could not be considered until next year.

>> Houston: So can I speak to what I was going to be trying to do on the 10th would be to ask for a postponement, have the second reading and then ask for a postponement so the county and the city could continue to work on the public improvement district criteria. Would that be the letter of the law to be able to --

>> The council meeting on the November 10th is still taking place so you can do that on November 10th.

>> Houston: Well --

>> Mayor Adler: I think her question is will it be okay on the 10th to have it voted on second reading only without running afoul of what Ms. Edwards raised.

>> I think that's correct, but I'll double-check that. Have a council meeting on the 10th, then I'm up a creek.

>> If you do not have a meeting on the 10th, all of the zoning cases that are now currently for the 10th will have to be renotified and there are about 40 some odd zoning cases. And as I said, the annexations, if you don't take at least one action on those annexations on the 10th, those annexations die for this year.

>> Houston: Thank you.

>> Mayor Adler: Okay. Ms. Kitchen.

>> Kitchen: And just so I clarify, I think I'm understanding, but I just want to clarify.

[11:37:02 AM]

There's a number of those annexations that are in -- that would be in district 5. So with regard to one of them, if I want to bring a motion to postpone that one, I could do that on the 10th assuming we're still having the 10th.

>> Mayor Adler: That's correct.

>> Kitchen: Okay.

>> Mayor Adler: Any further discussion? Yes, Ms. Gallo.

>> Gallo: I just wanted to say something about the grove is posted for next Thursday also, and since we're not going to have a work session where we normally try to indicate what our plan is for Thursday, there's been obviously a lot of discussion in the neighborhood and the council has received a lot of emails regarding the neighborhood's request to postpone this until after the second meeting for the mediation. I'm really support I have of the process of the mediation and hopeful both parties really look at that with the idea of coming closer together. This has been -- this has been a really negative situation in the neighborhoods where we've had neighbors saying comments that are not very nice to each other and it is really been a very unfortunate situation. So I'm really positive, I'm really hopeful the mediation will take place. I think we as council need to allow the time to do that so I would be supportive when that conversation comes up on Thursday to be willing to postpone until a date after I believe the next mediation date is November the 19th to allow an adequate time to ensure a successful mediation because I think that is where we get to the best resolution on this really high profile and -- zoning case.

>> Mayor Adler: Ms. Garza.

>> Garza: I hate to throw a wrench in the plan, but I still don't understand why we're canceling November 8th I think it's an important meeting.

[11:39:08 AM]

My understanding is because it's election day, but the business of the city doesn't stop because of that and our work sessions, I mean there's a the look of important things on the 10th agenda and I think that -- after much discussion and hearing, I don't think we should be canceling November 8th so I'm going to vote against canceling November 8th.

>> Mayor Adler: Mayor pro tem.

>> Tovo: For a moment I thought maybe we could just take a poll of who would be there and who wouldn't but I don't think that's a fair question. If the motion to cancel the work session doesn't go through, I hope we'll be clear with each other about who is

[inaudible] So we don't try to have a meeting and then not have a quorum.

>> Mayor Adler: And I'm not sure where I would be with respect to the grove question. I want mediation to work as well, but I'm not sure canceling the meeting on the 10th helps or hurts the mediation process so that's not a decision I'm ready to make at this point. I know there's some people that can't be there on the 10th. In order to accommodate that I've raised the question not to be discussed here as to whether or not to set an additional meeting on our calendar in order to allow for later consideration,

but more consideration. But that's not before us now given that you -- I just wanted to throw that out.  
Mr. Renteria.

>> Renteria: I'm also not going to be here on Tuesday. I had made some plans when I found out we were going to cancel so I'm not going to be able to be here.

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

>> Casar: I'm just indicating that I'm going to vote to not cancel it and I'll do my best to be there, just in case -- even if I can't be there, I would be fine with leaving it on just in case people want to show up and talk about items.

[11:41:17 AM]

I don't want to take that opportunity away from folks if we're going to have a meeting on Thursday, I don't see there being any harm there being a work session on Tuesday for the people who can get together to talk and for me to watch or try to be there. My vote shouldn't be seen as casting any particular judgments on it, I just don't see the need to cancel it.

>> Zimmerman: I'm going to vote to cancel this meeting. I would love to see us use the council message board more. That's the way we can hash these things out and I think it's really important to get some statements in writing, think about what you want to say about it and have some deliberation on the council message board. We have that tool available and I think we should use it more and this is a good place to use it.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: I'm confused, talking about the 10th or the 8th?

>> Mayor Adler: The 8th.

>> Kitchen: I have vote for canceling the 8th. This is a major day for the country and for us locally. I don't have any problem with canceling it since we have other avenues like the message board to speak to each other. And I think it's highly inappropriate and would be inappropriate for us to keep the work session on the 8th.

>> Mayor Adler: Okay. Any further discussion? Ms. Houston.

>> Houston: And I, you know, we're all very individual people. The polls don't close until 7:00 so I don't know how much work anybody can get done between 7:00 and 7:00 and I would like to have at least a half a day to -- so that people could come in and talk about their issues that might be impacted on the 10th. So I will be voting not to cancel the 8th. But hopefully we'll have enough to have a majority, a quorum, to make quorum.

>> Mayor Adler: So I came here fully intending to vote to not have the meeting on Tuesday. But I'm now going to change my vote and I'm going to vote in favor -- I'm going to vote against the motion not to have the meeting on Tuesday because I think it provides councilmembers who want to the opportunity to be able to air something publicly and to be able to visit with councilmembers in a way that is not available other than through the message board, which is certainly one way to be able to do it.

[11:43:41 AM]

And if we had some councilmembers that wanted to talk to another councilmember but they were not on their quorum list but we wanted to be able to engage in the conversation, since we can't take any action in the public meeting, I would give them the opportunity to be able to do that. There's some people that want to have that opportunity so I would give it to them. But I think that it would be helpful, as the mayor pro tem suggests, for people to weigh in on the message board to indicate whether or not there will be a critical mass of people that would anticipate being there. Further discussion? Yes, Ms. Pool first.

>> Pool: Mayor, I just point out it's not those of us on the dais who will need to be in the office and in the work session, but it's also the staff and we have been signaling fairly strenuously for the last couple weeks we were going to cancel the work session so it feels like a pivot at this late hour is not a very good policy decision. I personally will be out at the polls all day and I think that's where we need to be, engaging with the public and ensuring that they are voting because it's really important to do that. So I fully support and have for some time supported the cancellation of the November 8th, and the reason this anomaly secured is when we set our agenda almost a year ago, I know I didn't look at it, oh, that's election day. If I had, we would have had this conversation back in January and we probably would have all agreed this was not the week to have either a work session or a council meeting. That was bad planning on our part and from my perspective the newness of this position did not highlight the importance of this week with regards to our intersection with the public. So hopefully we'll bear that in mind when we set our council meeting agendas in future years and to bear this collision in mind.

[11:45:46 AM]

I also wanted to on the topic of the grove on the second reading and the public hearing on the 10th, I agree with my colleague councilmember Gallo that the optimism about the mediation is very real. I encourage both parties to get to a place where they can bring agreement to the matter because that will lay the predicate on our decision making going forward and I think it's role important that the parties have the ability without us intervening in the middle of a mediation process by holding a public hearing because there are sensitive and important items being discussed and I don't want us having that second reading and public hearing to in any way affect the work that the parties are doing independently of council because that's what we ask them to do by setting up the mediation. And I appreciated the mayor whose idea it was to engage in the mediation. I'm saying let's leave the Independence to the two parties to work through the process and I think council should stay well away from that while that mediation is underway.

>> Mayor Adler: Okay. Motion before us is to cancel the work session on Tuesday. Ms. Gallo.

>> Gallo: Mayor, I appreciate your points too. I think what I'm hearing there are some councilmembers that if they can get a quorum would like to do a work session. But to be clear, I will not be here on Tuesday.

>> Mayor Adler: Okay.

>> Casar: I think the challenge if there aren't six people, we probably shouldn't indicate to staff there will be. By my count, councilmember Garza, potentially the mayor, mayor pro tem and I and councilmember Houston would be there, which isn't six. At that point I guess it's a moot point.

>> Mayor Adler: I think that point is well taken.

[11:47:50 AM]

I think that point is well taken. Those in favor of canceling the work session on Tuesday please raise your hand. Those opposed? There just weren't enough people to gavel the meeting forward. So with Ms. Houston voting no, Ms. Troxclair off the dais, we're canceling the work session next Tuesday. That gets us to --

>> Houston: Mayor, just to be clear, so anything that we have to telegraph about the 10th we need to do that on the message board.

>> Mayor Adler: That's correct.

>> Houston: And whether or not we even will have a quorum for the 10th. Because that was part 2 of that.

>> Mayor Adler: Right. I would assume we're going to have a quorum on the 10th, but if that's not the case, people need to weigh in. But we can't take action on any of those items until then. That -- 26 has been moved till 1:00. 27 we have taken care of. 29 we have taken care of. Let's do 64 and 65. Items from finance. Mayor pro tem, do you want to lay those out?

>> Tovo: These are items from audit and finance and they were -- actually they originated with our boards and commissions process. And I'm looking out to -- it's been a while since we've taken up these items at audit and finance. I would look to my colleagues to see if they have any comments about them. They were changes we felt confident in and I think probably voted unanimously to support, as I recall. Ms. Estrada, would you like to provide information about these?

[11:49:50 AM]

>> Yes, ma'am. Boards and commission coordinator. Item 64 is brought forward by the parks and recreation board. This updates the mission of the parks and recommendation board and city code to align with their current duties. And this was recommended unanimously by the audit and finance committee.

>> Tovo: Mayor, I would move approval of that item, 64.

>> Mayor Adler: Mayor pro tem moves passage of item 64, seconded by Mr. Renteria. Discussion? Those in favor please raise your hand. Those opposed. Unanimous on the dais. 65.

>> Item 64 is being brought forward by the community development commission. This updates the resolution which lifts the geographic areas represented on the community development commission. The specific amendment before you updates the east Austin area nominating organization to be the east Cesar Chavez neighborhood planning tomorrow and this was also recommended unanimously by the audit and finance committee.

>> Mayor Adler: Is there a motion? Mr. Renteria. Ms. Houston seconds. Any discussion? Those in favor of item 65? Those opposed? Unanimous on the dais, Ms. Troxclair off. 64 and 65 both pass. I think that everything else we have now is subject to a time call later than where we are right now. So we have a ten-minute break until we can do citizens communication at noon. Mayor pro tem.

>> Tovo: Mayor, before we go on break, talk about how the rest of the day lays out, so we'll have citizens communication until 12:30 and then a 30-minute lunch break and coming back at 1:00.

[11:51:59 AM]

>> Mayor Adler: If we want to come back or we could take longer. We also have executive session containing the matters we discussed previously on Tuesday. With the addition of -- was [inaudible] Discussed?

>> We hadn't planned executive session. Is there a legal issue on item 78 you need to discuss?

>> Mayor Adler: I'm sorry?

>> I thought we already do it.

>> Mayor Adler: Does anyone want a executive session on bliss spiller, item number 78 on our agenda? So I would say we're not going to break for executive session, but when that matter comes up there would be nothing to stop us from pausing and going into executive session if it becomes clear that's something we should do. Ms. Houston.

>> Houston: Mayor, sometimes you are fading out.

>> Mayor Adler: Bliss spiller was set on our agenda for executive session. But rather than having a executive session over lunch, we're not going to call executive session. But when item number 78 comes up, which is bliss spiller, if at that point anybody wants us to retire back for a executive session, they can certainly request that and we can do that. So that has us doing citizens communication from 12:00, at

12:00. We have called the champions two items, 26 and 67, for 1:00. We know that the applicant is making their first request for P. At 2:00, not before 2:00, we have the historic landmark commission issue. And then we next have the Austin Austin housing finance corporation at no sooner than 3:00.

[11:54:01 AM]

And then at 4:00 we have the spay-neuter item as well as the last six things on our agenda, the first two of which, 74 and 75, we anticipate to be postponed until December. The question is when we break for lunch at 12:30, what time do you want to come back. Do we want to come back in half an hour at 1:00, do we want to come back at 1:15? Remembering that at 2:00 we are back again to do the historic stuff. So 1:15 or 1:30? 1:30?

>> 1:45.

>> Mayor Adler: There's a lot of people saying 1:30.

>> Tovo: If we are back at 1:30, that sounds great. If we think we're more likely to be back at 1:30 by saying 1:15.

>> Mayor Adler: Let's actually be here at 1:30.

>> Pool: I'm looking at executive session, there's four items, the first is the open government matters, but 71, 72, I do not see bliss spiller on there. I did not know that was going to be an executive session item. I don't know if I was the only one who didn't know that.

>> Mayor Adler: Maybe I read it wrong if it's not listed.

>> Pool: I don't see it on here.

>> Mayor Adler: Then it's not. I must have read it wrong.

>> It's okay. There's going to be a public conversation and if there's a legal issue we'll deal with it at that time.

>> Houston: Mayor, could someone tell me what district that's in? 78?

>> We'll find that out before it comes up.

>> Houston: Thank you.

[11:56:03 AM]

>> Mayor Adler: All right. We're going to take a break here for five minutes, then we'll call citizens communication at noon. Including a remote participant.

[12:06:09 PM]

>> Tovo: Good afternoon, I'm going to reconvene this meeting. We'll start with citizen communication. So Mr. Miller, you are on deck.

>> Thank you, mayor pro tem, good afternoon. I'm going to speak about rates and the utilities today, Austin energy and Texas gas service. They're both pursuing rate changes and rate policy. There is a residential rate case that raises rates for the lowest tiers, for the lowest users, many of whom are lower income. During deliberations, you asked agency to adjust to trust the discount for all residential customers, and they did not do this. They adjusted the rated based on the profile of one single customer who they thought was representative of low-volume users. My own investigation, based on the monthly profile of 400,000 customers showed that a consumer using 50% of average will see their bills go up \$12 a year. I am asking you to revote on this now that there is new information, though you can do this at any time, the best time to do this is before the rates go into effect January 1. My latest information is that Austin energy will need 30 days to reprogram the billing system. I hope and urge you to place this

on the agenda this month. On a related matter, there will be a hearing later today and this will also be brought up in executive session about the increase for Texas gas service.

[12:08:11 PM]

I recommend that you do not pass these rates as proposed, because it goes against council policy of full capital recovery fees charged to new customers. In an effort to lower rates and make Austin slightly more affordable, council asked for 100% capital recovery fees for the city's electric, water and wastewater utilities. In the case of Austin energy, the policy is one of the reasons you were able to award a rate decrease in August. Full capital recovery fee for Texas gas service is simply following the same logic. Now, I have done some research and what you will probably be told in executive session, which I cannot see, is that the capital recovery fees are not acknowledged as part of the Texas railroad commission's rate protocol. I have a three-point response. First, this issue was never brought up in negotiations. If you don't ask for something, it's not going to be on the table.

[Beep] Second, the railroad commission can be appealed, and third, there is this small matter that to a degree, the gas company serves at your pleasure. That is the franchise. You all grant the franchise. If they don't want to go by rules -- excuse me, by pro

-- protocols that are standard in the city, maybe we shouldn't renew it.

>> Tovo: Thank you, Mr. Robbins. We are going to go now to our tela-citizen. I want to welcome our visitors, thank you for stopping by our council meeting. Timothy Miller.

[12:10:11 PM]

It looks like you are ready to go. He's talking about the new right-only turn-in lane on Anderson 203.

>> My name is Timothy Morris, I would like to thank mayor Adler and the members of city council for the opportunity to address you today and I'd like to thank councilmember Zimmerman for the ability to do so from the district 6 office. Speaking as a baseball fan, who did stay up past midnight last night, I would like to thank rabbi bloomhoff's invocation and he spoke of the need of the need for creative solutions. That is a segue to why I'm here. I would like to thank the city of Austin, councilmember zimmer Mand and his staff Joe pe-ronas, and the improvement of the intersection where a right lane has been established for those heading east who want to turn right on to the southbound 183 access road. Prior to this improvement it only took two to three cars wanting to go straight ahead to block right turns during red. That led to significant backups. The traditional solution would have been the additional stacking lane, but that would have required the acquisition of the right-of-way, which is significantly more expensive and taken longer. By a simple restriping of lanes and an easy modification to the moddian, a significant improvement of traffic flow has been accomplished at this intersection and a fraction of the cost. This simple, creative and innovative solution was funded by funds from the cap metro quarter cent fund which has been distributed on an equal basis to all 10 city council districts.

[12:12:11 PM]

I would like to thank councilman Zimmerman for taking the lead on making that happen. I think this situation is a good example of why the distribution was the right thing to do. Empowering the local areas to find local solutions for local problems is helping things be accomplished in a timely fashion. Since this improvement has been in place, there has been feedback on next-door say the right turn arrow should be painted in the right turn lane and the information sign warning of a right turn coming should be move further back. We can tap the abilities and creativity of the population at large as we have done so by moving down the ability to get things accomplished. So once again, I would like to thank you for the

opportunity to address you this afternoon. And I'd like to thank you also for a small but significant improvement to Austin's traffic. Thank you very much.

>> Mayor: And we have Mr. Rogers also from the district 6 office. You have three minutes.

>> Thank you. Mayor Adler, councilmembers, thank you for this opportunity to address you. I would like to speak with you a little bit about what I perceive is the two biggest problems facing Austin right now. And what we have been doing and what we need to do differently. Those two problems that I perceive are one, traffic congestion, and two, housing affordability. We have a very limited supply of homes and apartments and rental units.

[12:14:11 PM]

We also have a limited supply of roads and we have way more demand than we can accommodate. We have an imbalance for the supply and demand for roads and for the supply and demand for housing. Unfortunately what we appear to be doing and I think what is causing a significant increase in these problems is we are chasing growth. We are incentivizing individuals and businesses. We are recruiting individuals and businesses to move to our fair city. We also have a limited supply of sidewalks, water, pools, libraries public safety employees, city staff and city council members and they have a limited bandwidth. As we continue to incentivize and recruit businesses and individuals to move to Austin, we are doing so and by doing this, we're driving up the demand for the resources which is driving up the cost for the housing and the apartments and it is also driving it's also driving up the demand for the roads and we don't have the roads to accommodate all these people that we're bringing in. What I'm going to suggest to you is what we ought to be doing, we ought to quit spending money supporting, financially supporting, the five different chambers of commerce which we are currently supporting out of the economic development department's roughly \$50 million kitty, and I think we immediate to look hard at the whole concept of global development and global recruiting that we are doing out of the economic development department, and we might even want to consider in fact shutting down the economic development department and spending those roughly \$50 million on things that we can do to make our city more livable and more affordable and make our traffic congestion less by making small improvements here and there.

[12:16:27 PM]

Again, I thank you for this opportunity to talk to you about the supply and demand imbalance we have with our roads and with our housing and I hope you would please consider throttling back on your efforts to recruit additional individuals and businesses to move to our very, very crowded city of Austin.

[ Buzzer sounding ] Thanks very much for your time and I appreciate your consideration

>> Mayor Adler: Thank you very much. The next speaker is Mr. Ebomwonyi.

>> Zimmerman: Mr. Mayor, there's a little poltergeist moment there but I wanted to point out he sounds like he was channeling councilmember Zimmerman, but I've never talked to him about that.

>> Mayor Adler: You have three minutes, sir

>> Yes, sir. Good afternoon, my name is osayekeme ebomwonyi, I'm from bini kingdom. I'm gonna come here to talk to you about gang violence and the things that we can do to help out kids and children in today's society. I just got a [indiscernible] I'm looking to become a pastor but this is what I wrote. There are many gang problems in our community today. These problems can range from murder to graffiti on the sidewalk, streets -- and streets in our cities. Austin as the capitol of Texas we know that we must ensure that we make safety an individual and utmost importance. We should be known for our strong law enforcement, increasing protection should be a high priority of 2017. It's about to be a new year. Protection should be our main focus. There's too much going on in today's society.

[12:18:29 PM]

That should our main focus. I am personally aware of the -- aware of individuals that have been involved in gang activities around our cities and would like -- would like assurance that more will be done. One of my major concerns is the safety of women. Women tend to be quiet, so as citizens of the city we need to be amboss pastors and is a mayor -- ambassadors. Be aware of people taking advantage of women. We as a community need to come together and create a plan to help these women ensure kids do not draw -- get drawn into gang violence. I have cried too much for this. I have witnessed too -- I have witnessed too much not to do anything. That's why I came here to talk. You know, my love goes out to the women struggling for the oppression by these deranged, demented slides. What should be done? That's the biggest thing. I thought that through. I need protection for all women and children. We as a city need to get -- again, ensure all children and women and men have a connection with the police force. One idea that came to mind is creating a program that would allow children and youth to have partners, mentors, police forces, individuals to help them as they grow in life from youth to adulthood. People that they know, that they can meet. It's all about a connection. You know, if a child can connect with a police officer or law enforcement from youth, they know that they have -- that's their source of protection or that's someone that they can go to in case of any problems. I feel that all men and women in our area should know at least one officer or law enforcement that guides them and leads them. They need -- they can ultimately --

[12:20:31 PM]

[ buzzer sounding ]

-- To a safe city. These children can learn a lot from these programs and in return get protection. I personally need a policemen tore myself. I feel that -- for myself. I feel with proper guidance from law enforcement and help from individuals in need we can accomplish a lot in our community. I will go back and continue talking -- I will be back to continue talking about how we can help children in growth and protection through the bond of authorities because like in my -- when I was young there was something where -- it's the deer program, where police officers would come and talk with us. They would never sit with us and grow a connection but if a police officer would grow a connection with these kids and make them part of their life, greatness can happen.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Thank you for coming. Next speaker is Koo Hyun Kim. No? The next speak is Sylvia Mendoza. Travis Duncan? You have three minutes.

>> Thank you. Good day to you, city council. Thank you for this public forum. Now, Austin is weird. We all know that, right? But I believe it's time we make it much weirder. Okay? Imagine a future Austin, completely energy independent, okay? 100% renewable energy. Clean, green, renewable energy. But this future energy is not owned by a corporation or a utility. It is owned by the people. Now, that would be truly weird. In our society today.

[12:22:33 PM]

I believe we must ask ourselves a fundamental question: Who owns access to the sunlight? Who owns the wind and the rain? We need to decide. And I, like many others before me, believe that the sunlight does not belong to any one individual or any corporation. But, rather, it indiscriminately and unconditionally graces all of us equally. With unlimited

energy. And I believe we must cherish this abundance and respect it. What I propose to do today, city council, is transition our city to 100% renewable energy as soon as possible. It can be done, and I am pleased to share some ideas with you today. Now this forum is quite short so I've submitted a simple bullet point document to city council that will hopefully be delivered to all of your mailboxes offering a new approach to the energy grid. One which will empower self-sufficient and a truly free community, will dramatically lower the cost of living while catalyzing a revolution in business innovation and technology advancements like we've never seen before right here in our city. Now, through a method of on-bill financing we can easily transition and get 100% renewable without stressing over massive financing struggles, a corporate agreed battles, which everybody knows about, and especially not controversial taxes. We don't want that. The best part about this proposal is that nobody's bill will ever increase. Ever go up. Never. Okay? In fact, over time, ideally we're gonna decrease the bills for all people in this city by 80-90%. Now, imagine the benefit to our young people.

[12:24:36 PM]

Okay? Our youth. Not only in their health and vitality, from a clean and thriving ecosystem in which they live, but the educational benefits of witnessing such an advanced model for a sustainable future. We're talking dreamers.

[ Buzzer sounding ] Ren, the core principle here is that the people must own the energy. Every household with an energy bill has an ownership stake in the power plant.

>> Mayor Adler: Finish your thought.

>> Guess what? The cost of living just went way down. I can say it can be done. I want to say thank you again. I will be back and I'll see you next time.

>> Mayor Adler: Thank you. Next speaker is chiomi Okon.

>> I'm glad to be here. While I was looking at y'all, I just reminded myself about the last supper of Jesus Christ and it gave me more confidence. I [indiscernible] Speech, thank you, you've been very helpful in the society, we see what you've been doing. But my topic today is just on homeless situation. A lot has been said on homeless for a very long time. But it's, like -- it's part of us. It's not going away so soon. The reason is that some of those people that are homeless are really [indiscernible], basically. When we go out to get coffee, we see them, they say hi, we ask us for things we don't have sometimes, sometimes we give. A lot of people have engaged themselves in this very venture to make sure these people are taken care of. On my part for many years now I've been doing things with homeless people.

[12:26:38 PM]

I've been one myself, and I survived it. I think everybody can if we do a little more. So I'm talking from experience. I'm a registered nurse by trade, and I had to go through a lot of difficulty that made me acquainted with these people. I designed an alternative program for these people. We already have other people helping, but these people that I'm talking about are the cognitive type, the time that forget where the restroom is, sorry to say that, the type that don't know where they're going to take a shower because of their health. So I already have a school that I'm starting to operate. It's called cognitive alternative [indiscernible] It's where people with cognitive alternative start between high school and college. So I looked at the population I've been helping in homeless people. I spend 2-3 hours a day trying to give back to the society all that was given to me. A lot was given to me. I found out that they won't benefit from these college team, at least we're changing a team, not just letting them roam around. We're [indiscernible] And it's longer. If we can at least have a place where we can tell them, here, you can gather here together at this time and they get the routine, it will take long. So we're looking at if the city can give us any park to start with or any building to start with, because the growth

of this -- Austin is very fast. I've been here almost 20 years. It's very fast. But we're getting somewhere. A lot has been accomplished from the -- the people before y'all and y'all, a lot have been accomplished, but if we continue to ignore this area.

[12:28:40 PM]

[ Buzzer sounding ]

-- Of the society, it will bring about some disgusting situation where somebody like the homeless people are being affected or Normal people going around are being affected. So please, I will thank you all for giving me the time to speak on this, and I've given each of you one of my notes to look through because it's not something I can finish here. But god bless you all.

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

>> Thank you.

>> Mayor Adler: The next speaker is iris Leija.

>> Hi. My name is iris Leija. I'm a cook at hills cafe in Austin airport. I'm also a member of unit ear local 23. My coworkers and myself are the first people to welcome guests to our city, and we are proud to provide them with the

[indiscernible] And customer service. Last Tuesday we held our first ever airport concession workers convention. We would like to thank all the council people and their staff that were able to attend. The theme of this event was good job equals great service. Over the last few years, we have been able to work cooperatively with many employers at the airport to make sure that these are good jobs in this service industry. Good jobs equals great service. As the airport expands, this collaborative approach is the best way to ensure that the guests who travel through our airport continue to receive the finest in customer service. We look forward to working together to make these experiences a success.

[12:30:40 PM]

Once again, we would like to thank this council for your support. Working together, everyone wins. Thank you.

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

>> Thank you, mayor and councilmembers. Hello, my name is Krystal Johnson. I work with planet K gifts and I've been an austinite all my life. It was my pleasure to invite everyone here and the community of Austin to view our annual fireworks celebration that happened this past Monday, Halloween night at 9:30 P.M. But due to staff technical difficulties we're not allowed to invite you all before the event. We've been celebrating Halloween for nine years now and aside from providing the fireworks show of a lifetime the fireworks are kicking off a month of giving to Austin charities, but this year includes central Texas food banger, house the homeless, Austin pets alive, meals on wheels, and Austin harm reduction coalition. We are happy to have been working with a couple of these representatives from these charities and would like to recognize them and urge all austinites to support them. I have been working with sandy from central Texas food bank which provided 31 million meals last year, Kevin from house the homeless, working to end homelessness, dad from meals on wheels, Hannah from Austin pets alive which saves over 7,000 cats and dogs each year, and James from Austin harm reduction coalition, which helps reduce the spread of disease. I thank you for your time and we hope that you can enjoy our fireworks event next year.

[12:32:47 PM]

Finally, we invite everyone here to come visit our tent location here in Austin that's going to open up this month in November. And if you have any information you can go to planet ktexas.com for more information.

>> Zimmerman:

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

>> I went to the planet K Halloween party I think last year. It's terrific. If I were to think about kicking off a keep Austin weird award we ought to start with Mr. Clineman and  
[indiscernible]

>> Thank you very much. I appreciate that.

>> Renteria: Mayor, I can see the fireworks from my house and it was very great. I want to thank y'all.

>> Thank you so much. I appreciate it. Councilmembers, those are all of the citizens communication speakers. We're gonna be in recess until 1:30 sharp on the dot. We'll come back then. We're in recess.  
[ Recess ]

[1:33:55 PM]

All right. It is 1:30. We have a quorum. We're back here, and we have the champion matter in front of us. Let me see here what the item was. We also have the -- 26th and 67. Is staff here for this? So counsel, we're going to have to decide way we're going to do

-- what we're going to do with speakers here. My understanding is the applicant has asked for a postponement. Is that correct? And is this the first request from the applicant?

>> He's requested a postponement for one week. It is the first request.

>> First request, and it's the council's custom to grant the applications in this instance in this way?

>> That's correct.

>> We have a lot of people here to speak. We also have items, if they get postponed, we've in the past given people who appear the opportunity to speak. In this situation, most often, with the admonition if they speak today, they don't speak this week. If they donate their time this week, that is using their opportunity. We don't know how things might change next week. Generally we encourage people to wait in order to see what is finally in play.

[1:35:59 PM]

In the instance where we have not indicated a postponement at our Tuesday meeting, we've given people the chance to speak, but usually with the admonition they can't speak the following week. We have to talk on council if we're going to vary from that here today. Yes, Ms. Gallo?

>> Mayor, I think it's my understanding that we have community members here that could not speak next week, so I think that that was an agreed upon understanding that if they spoke today, we would give them the opportunity to speak today even though we're talking about a postponement but that they would agree that would use up their ability to speak next week or at whatever time it was postponed to. This is the third reading, and we have kept -- unlike most zoning cases, we've actually kept open the public hearing for all three readings, so citizens have been able to speak all three times, but it's kind of been a moving process through all three. That was the reason it was important to all three, to make sure that the community had the opportunity to come before us and express their concerns. So I think unless there's someone out there that would disagree with that about allowing people to speak today, if they wanted to speak today. If you do speak today, you would, as the mayor said, give up your ability to speak at the next opportunity.

>> If you speak or donate your time today. Okay. So with that understanding, then, then we'll proceed. So before we entertain the motion to postpone, let me ask the public if anybody in the public wants to

speak. And we would begin -- I'm sorry? I'm going to ask. Let's look at the list and see if people want to speak with the conditions that were given.

[1:38:01 PM]

The first speaker is David king. Do you want to speak today instead of next week?

>> Mayor, I donate my time to Carol Lee (phonetic).

>> Okay. I will get to Carol Lee in a second then. Brad Rockwell, do you want to speak this week or next week?

>> This week.

>> This week? I have time being donated to you. Dale Bula (phonetic) Do you want to use this time this week instead of next week? Pat Bula, do you want to use your time this week instead of next week?

Susan kimborough?

>> (Indiscernible)?

>> I'm sorry?

>> I'm donating (indiscernible).

>> And this is your opportunity this week or next week that you're using today. Fred nuenshwander (phonetic), do you want to donate your time? Brad, do you want to come up? You have 15 minutes.

>> We have another speaker that I would like to follow, if that's possible?

>> That's not a problem at all. Mr. Duncan, do you want to speak this week instead of next week?

>> Today.

>> Today. Alexander Williams, is Alexander Williams here?

>> Yes, sir.

>> Do you want to use your time allotted?

>> Yes.

>> Page Hoover, this week instead of next week?

>> Yes.

>> Carol snapper?

>> This week.

>> This week. And John rock?

>> Yes.

>> Okay. Mr. Duncan, you have 15 minutes.

>> If the clerk will keep track of names so we have this for next week.

[1:40:03 PM]

>> Thank you, mayor, council. You might ask why I'm here. Okay? I have some very good reasons, I think. Do I click this, or do you? Which one? Okay. I'm basically here for three reasons.

>> Can you point the microphone a little bit more to you?

>> I'm sorry?

>> People are having trouble hearing you.

>> Okay. Let me get closer to.

>> Thank you.

>> My reason for being here today is threefold. First, I'm abutting homeowner. The graphic there shows the subject tract in red. The yellow star shows my condo. It's part of the monte vista homeowner's association. 350 units. It has -- the longest common boundary with the subject tract you're addressing today. The second reason I'm here -- is that I don't know how to use this machine. There we go. Is that one of the -- 32 years ago when I came back here to Austin as planning director. The number one issue

was the hill country. Some of you weren't born then. Excuse me, Greg. But 3M had just announced it was going to locate on the four points there. The land you speculated, heading to the hill country, it was like the sooner land rush. We had an administration then. It was the mullen administration, that saw the problems. The first study I had to do was what we call the hill country -- the northwest plan.

[1:42:07 PM]

This is actually copies of all the articles. The author of this was Robert Gullic. He had to leave, but he won a national award from it. It was a big deal. Not only did we get a plan, but we had several development regulations. The one I'm probably most proud of in the 50 years of drafting codes for cities was the hill country road ordinance. It's still here today. It was adopted in 1986. It has been the defender of the hill country. One of the things we saw then, we knew Austin was a pride city. We were going to attract population, even though we were only one-third of the population then. We wanted to protect our hill country, which is one of our prized resources. Now, those are two personal reasons. The big reason that I'm here today is that, in my opinion, the parcel that's before you today, if you were to adopt, it would be in total violation of imagine Austin, and it would be a December macing for the two key ordinances for the hill country. I'm talking about the road ordinance and the watershed ordinance. I'm going to get into that in more detail. A lot of effort was put into this, not just by staff but by citizens to protect the hill country over the years. This is the three we're going to be talking about today. I'm not going to get into the history of this project because I know that I interacted with the champion sisters in, I think, '84/85, this property has been out there for a long time. There's a key piece of property, 360 and 22 interchange. It came through and the property was cut into four segments. We're talking obviously about the southeast segment at this time. But I only want to allude to the fact that this particular property probably represents the longest and most convoluted history of any property I've seen.

[1:44:22 PM]

It's a moving target. It also shows why we're working on code next. We need to have a system in which people know what's happening. This has been litigation after litigation, settlement after settlement, there's been at least five different zoning categories. There's confusion out there. I know when I approached my board at monte vista and asked why didn't you object this, they said we're not against a small office building. That was last year. Now we're talking about a large project. How large of a project are we talking about? This is what they're entitled to. There's settlement agreements and entitlements. Attorneys can give you the details on that. On this property, they're talking about -- they have been a title to a two-story 30,000 square foot office building. A project like that could be integrated into the natural environment very easily, but what is before you today is to allow this, a project that is ten times larger. Five story, 350,000 square foot. 325 unit project that is obviously a much bigger thing. I couldn't find any rendering given by the applicants, so I decided to do my own.

[Laughing]

>> If you've ever crossed 360 bridge, that's what you would see. Okay? In my opinion, that would be one of the biggest desecrations of the hill country that we could have. I've got one more. That would be what it would look like if you were at the city park road intersection. I admit it may be a little off, but not as far off as some of the renderings shown before. Now we go to staff. What did staff do when this came to you? Staff actually claims that the five-story, 325-unit, 300,000 square foot apartment complex is can rememberable to the 30,000 square foot office building.

[1:46:31 PM]

They give you three reasons. The use of supported by imagine Austin. The arterial and highway, and the area mix of uses and to alleviate the housing shortage. Wrong, wrong, wrong. The two policies they've given you out of imagine Austin, which is the bible -- I do believe in that. I like to carry a bible around so I always have props. I can't really understand how they got that because it's, number one, under the land use and transportation policy number three. That's a goal, we want to follow that in this town, the second is to encourage refill and development opportunities. In the hill country? That's an urban issue. They totally missed the target on the two policies. But they were right in trying to find policies. Look at the growth map. The site is the yellow star that's ringed. There's no activity center, compact center within five miles of that site. All right? In fact, the nearest one is four points, which, if you look at the plan, it says it is an activity center for redevelopment in environmentally sensitive areas and has totally different considerations. But the one that I found in the plan that really I don't think staff got this far back because it's in the appendix of imagine Austin. It actually is appendix a48. It's a preferred scenario growth property by acre. This is in the west bull watershed. It's in the head waters. West bull actual runs through the property. And what does imagine Austin say? No residential. None. Zero. The gray is zero. It's because of environmental sensitivity.

[1:48:34 PM]

That's not an argument for putting 325 units from that corner. So I looked further into imagine Austin. I found a lot of policies related to this. Land use transportation, limit land use and transportation and development in sensitive environmental areas. The conservation environment policy two says the same thing. It's important. It's in there twice. Policy six says enhance the protection of creeks and flood planes to preserve fireballally sense depreserve environment it Willy sensitive areas.

>> We're going to get to variances, but we're going in the wrong direction on that. So we're totally violating, in my opinion, imagine Austin. The second objective, the second thing that staff grabbed onto, it's at the corner of arterial and highway, an access. Yeah, if you really stretch it again, but let's analyze that a little more. The highway is 2222, which they don't even have access through. They have egress. They can't come into it. Calling city park road an arterial is a real stretch. It is the longest, curviest, hilliest, dangerous -- I don't know if that's a word -- cul-de-sac, collector that we have in this town. We need to be sensitive when we're talking about putting major development on those roads. That's a diagram of what was suggested. This is the second half of my thoughts here. We've talked about the plan. I've said, basically, it does not comply. Therefore we have an issue because it's more than just doing imagine Austin. It's violating article X of our city charter that says you shall comply with the plan.

[1:50:35 PM]

So let's get to the site development standards, starting again with the hill country road ordinance, which I said I'm proud to say I had a hand in drafting in 1986. You can see the site there, what we did. The green is the low intensity. Basically, that was to protect those areas. On the other side you have the lake Austin watershed ordinance, again showing the head waters of bull creek. So we've put in place not only the plan, but all these regulations, which we're looking at right now as code next. I'm going to assume we're trying to keep them as strong as they've been. So what has staff agreed to with the developer or the applicant or the attorney as variances? A 1,000 increase. That's density. That's translated when you go intensity to density, whether it's residential or non-residential. An increase. A 400% increase in cut and fill. That means hillside, bye-bye. A 200% increase of impervious cover. Just before it merges with bull creek and just before it goes out into the Colorado river. An elimination of all natural buffers. One of the keys we put in was the 100 foot buffer. We were not trying to deny people to use their land. We just said we want you to assimilate. You will see a village -- a lot of people don't know it's there up the road a

little bit. They've got the 100-foot buffer. Elimination of all pier and beam usage. I'm not an engineer, but you have to use slab, which means you have to rip up most of the territory. I'm not going into all of these, but these are the hill country variances that have been asked for. It's basically 'ing. What I do want to point out and I'm most disappointed in.

[1:52:36 PM]

The variances to the left and staff's negotiated -- counteroffer on the right. You will notice there's no difference. That's not negotiation. That's capitulation.

-- Capitulation. You could have hired wilt chamberlain. I'm really disappointed in that. I mean, that's basically saying whatever you want, I will give you. Forget the fact that they've had an ordinance for 30 years. Forget the fact -- well, I could keep going. I will say that your watershed

-- you have two things. You know the ordinances. One handles impervious cover and the other is height and density and all that. This wasn't doubled down a little bit, but it's still desecrating and decimating the site. So I just want to leave with the comment the hill country, like Bartlett springs is an irreplaceable natural resource that belongs to all austini, the es. It's part of what makes Austin Austin. And your predecessors, starting with mullen, concerned about urban development approaching and destroying the hill country enacted strong plans and regulations to preserve its natural character. I think it's imperative today that we respect that legacy by denying that application and other applications of similar nature. I thank you very much for your time.

[Applause] .

>> Thank you. The next speaker is Mr. Rockwall. Do you want to come up? I think we had the speakers indicated, pat Bula, Susan kimborough are using their time this week instead of next week.

[1:54:47 PM]

You have 15 minutes. Is that right? Do you want to go next? Did you want to go before him?

>> We should have given you the order. I apologize.

>> Is there an order? I will use your order?

>> Just the first two.

>> Okay. So Carol Lee. Is Elena fowler here?

>> Yes?

>> Your time this week? Next week. Betly Lyon -- Betty Lyon? This week or next week? This week. Okay. Melissa Rogers.

>> Yep.

>> This week?

>> This week.

>> And John Lyon? This week? So you have 12 minutes.

>> Okay. But you wanted to give your time to Carol Lee.

>> I will give three minutes of my time.

>> So you're using your time this week, not next week?

>> Yes. You have 15 minutes and David king is using his time this week.

>> Thank you mayor and council members. I think you've gotten an idea of how many neighbors have come up. I would like to ask them to stand up and get recognition for taking time out on this Thursday.

We have representatives, neighbors from shepherd mountain, two coves, green shores, oak shores, Glen lake, Westminster Glen, and I hope I didn't forget any.

>> Courtyard.

>> Courtyard, thank you. So we've heard -- we've heard the last several presentations from Mr. Subtle that they've been at this for over two years and how hard he's worked. I wanted to give you a little bit of a glimpse on the communities's involvements in these properties over the decades.

[1:56:50 PM]

It starts off with rezoning of tract four and five. In '92, '93, the council put some conditions on there with that zoning that Mr. Wayland didn't like. So he filed a lawsuit. He thought that they were conditions that were more properly considered at site plan, which is a little ironic since here we are at zoning considering site plan variances. In one of the four amendments that he filed on the original petition, he claimed that the city was personally wronging the champions by considering passage of the bull creek watershed ordinance. That's why in 1996 the settlealment agreement that -- settlement agreement that Alice Glassco signed with them grandfathered them back to the lake Austin watershed ordinance in 1980 best practices. So again we had a monster zoning in March of 2000. I was meeting with someone last week and they asked how you can remember that date? I said, I spent my 40th birthday down at city hall on this case. That makes it memorable. So that was a really big one. With that zoning, they did a comprehensive traffic impact analysis for all five tracts, as you can see from the chart. It was 520 trips for 30,000 square feet of general office. They adjusted all of them downward because of the mix of uses, kind of like we do for putts now. There was over a million dollars of direct roadway improvements that were going to be required. The champions were not interested in mitigating any of the traffic. So with this rezoning, the city council placed a limit of 6,500 trips to be shared among tracts one, two, and three.

[1:58:55 PM]

So they come in again in 2004 and tried to add mix use and remove the trip limits and the square footage limits. Went through many hearings, had three separate council readings. That was denied on a 6-1 vote. So get another lawsuit filed. By the way, in the 2000 gesture estates tired an attorney to represent them. Many of the neighborhoods chipped in. As I was going through my files, I came across a letter from that many years ago thanking Glen lake for their contribution. This has costs us a lot of time and money. So we come up after the second lawsuit, and -- trail signs mediation agreement approved by the council to initiate that and staff dutifully starts initiating rezoning to add mixed use and remove all the conditions for tracts one, two, and three again. Again, the citizens got involved. We hired another attorney. Jim kumar was working with Miller at that point so he could no longer represent us. Since he had been involved, he reviewed the second lieutenant and said, this is warmed over, same arguments, as unsubstantiated as the first one. Our lawyers also said the same thing. We convinced the city council. They brought in three outside law firms to give them an opinion on the lawsuit. Third reading was never had. The application expired. In 2014, a judge dismissed the second lawsuit without prejudice because of inactivity. So now we're up to the time after two decades where Mr. Subtle is filing applications. They hired the master of development entitlements to go get entitlements.

[2:01:02 PM]

Well, the first application expired, lack of activity. They weren't really keeping their eye on that. We found out -- the Glen lake neighborhood found out about the second application in January of this year. Many of my neighbors were concerned. We started getting together, meeting with some of the other neighborhoods. In June, it was a rezoning case. In September hearing, we knew that the settlement agreement was being cracked open, but we didn't really know. It was full of a lot of blanks. So I talked to you about that time, about about the process and how inappropriate the process was because we didn't

really understand the deal. So we found out details of the deal, and we now have Taylor Smith, Gallo's aid, sent redline versions to us thankfully about 15 days ago so we weren't caught short again. And the final draft of the legal documents were posted Friday. They're about 99% complete. So the other point I want to make, why are they needing such extreme variances. Horn estimated that the multi-family yield for this tract would be 328 units using both buildable areas, the eastern and western portion shown at the red angles, connected by a bridge over the canyon. They said that may reduce some of your units because that's going to take up some impessureous cover. 328 using both sites. Now they want 325 units, using only the western side. With this area, it's going to destroy that hill. Do you need extreme variances to develop multi-family in the hill country.

[2:03:12 PM]

Vaught ranch, there's not guilty objectionable about that. River lodge, three miles on 2222 in the moderate intensity. It's fine. It fits right in. Canyon ridge, low intensity. They were limited to five units per acre. One and a half miles from this tract. Gables grandview, it's up on the cliff. Very prominent. Most of us through visitors saying what is that? I thought it was a nice place for a prison. It's prominent because of its location up on the top of the hill. Even at that, it pretty much can canyon spring on 360. They respected buffers. The compares these ordinances and they did have a -- is this a reasonable request to others, no. It doesn't represent the amount of variance that they need. They are only using 2.2 acres of slope, half of what they could.

[2:05:13 PM]

It grants privileges that are not provided to other owners of similar situated property and [lapse in audio]. What you have with legal developments. So please design -- deny the rezoning coupled with the guaranteed variance from almost every provision of the acro and and weyo. We have no [lapse in audio] And the Austin watershed ordinance although it -- it's the best. Thank you.

[Applause]

>> Mayor Adler: Thank you. The next speaker is Bob Rockwell. And I think we already checked Kimbrough and Fred donating their time. You have 15 minutes.

>> I believe I've got a power point coming up there. My name is Brad Rockwell, I'm representing some neighbors. I've passed along a letter I've draft. You've seen a presentation about how many exempt -- how many variances, how this has progressed over several decades of constant, relentless efforts to exempt themselves from the law. And not surprisingly there's a limit. The law limits you to how much you can just throw out everything and just give the owner and the developer of this tract 3 everyone that they want in circumvention of the laws that apply.

[2:07:34 PM]

The Texas local government code has a provision specifically applicable here to zoning regulations must be adopted in accordance with a comprehensive plan. I've litigated -- [lapse in audio] That dealt with this issue and struck on zone that was I want I want with the comprehensive plan. Not just in the statutes, it's also in the charter. All development regulations including zoning must be consistent with the comprehensive plan. The city is without authority under its own charter to grant zoning as being proposed here consistent with comprehensive plan. Also in the land development code. The zoning has to be consistent with the comprehensive plan. As Jim Duncan pointed out in the imagine Austin, this is the map on page 48, this is the map -- the title is preferred population growth and around by watershed zone.

[Lapse in audio] Now, this map is also consistent with the other maps within imagine Austin. This one is growth -- buffers. There's no community centers, there's no -- there's no growth centers near this project. This is another map relating to growth and proposed head waters.

[2:09:34 PM]

Again, there's no growth center proposed for this area. And then finally, this is the growth concept figure 4.5 map from imagine Austin that shows again this area is not one proposed for residential growth under imagine Austin. There's also specific language in imagine Austin that contravenes what's proposed here. Land use environmental sensitive areas should be limited. There's a requirement development should be integrated to reduce impervious cover. What's being proposed here to you under zoning would increase the entitlements to impervious cover. Another core principle expressed in imagine Austin, on page 10, strengthen our wildlife habitat. And I'm going to get into this little bit more. The champion tract is particularly valuable habitat for golden cheeked warblers and wildlife, and it's protected by wildlife permit in which the city of Austin is the permittee. Even when the city of Austin reviewers reviewed this latest zoning proposal, they couldn't say that it complied with the comprehensive plan. The language used, this is taken from the reviewer, city of Austin staff said it's partially supported by imagine Austin comprehensive plan. Even she couldn't say it complies with the comprehensive plan. And the only reason that she said it partially supported is because the version she was looking at apparently had mixed use. It wasn't a residential project. It was a project that she hoped would have a retail component, if not some other multi-use offices and medical.

[2:11:42 PM]

She pointed out the project is not located along an activity corridor or within an activity center when which the imagine Austin growth concept map targets for growth. Even your own staff, you know, in formal review did not conclude that it met the comprehensive plan. Because this proposed ordinance is inconsistent with the comprehensive plan, it would be invalid for you to enact it. There's also -- in addition to the comprehensive plan requirement, there's a requirement under the Texas local government code that says you have to -- when you are adopting zoning regulations, you have to establish procedures for adopting and for enforcing regulations and making change to that. And you all have done that, the hill country roadway ordinances and other ordinances, there's very specific zoning -- the zoning -- the land development code in general on zoning has always raised procedures. These procedures aren't followed here. This is just throwing out all the procedures, all the usual regulations and saying, you know, you don't have to comply with most of the regulations and here's a special package for you. That's not -- that's not allowed under statute. There's a case Wallace versus [inaudible]. The legislature directs the city follow the procedure it adopts. In this case since the adopted was not followed we hold the first ordinance enacted by the city is nullity. You've got to follow the regulations. Another regulation, this is a C.O. District that's being proposed. Use regulations imposed by a C.O. District must be more restrictive.

[2:13:48 PM]

They aren't, they are less restrictive. You aren't even following your own rule. Now let's talk for a minute into the endangered species act. Like state statutes this isn't something the city has to [inaudible] Avoid. The applicant here, the -- that covers act 3 has bar already designated through the bcc plan as golden cheeked warbler habitat. The city itself has a fish and wildlife permit and is a participant in the bcc program, is also governed by the regulations as a permit applicant. I contacted the Travis

county staffer who is in charge for administering the program and it said this property in the zone golden cheeked warbler habitat, balcones canyonland habitat maps. Now, ordinarily a developer is given an option to proceed as a participate in the bcc program and avoid a lengthy and difficult process of development of a habitat like this. In this case, the developer [inaudible] Instead the developer has -- has cleared parts of the property and the clearing was done with the authorization of the city of Austin, at least to some extent. So again, the coordinator says review of our records indicates this parcel has not been [inaudible] Through the process U.S. Fish & wildlife service in the 10a permit.

[2:15:49 PM]

And she says it's not possible to participate bccp after clearing dangerous habitat has hurt. So they can't even take advantage of the bcc process. They've already blown it off just like they want off all these other regulations. And in the picture on the slide shows this is -- this is not only theoretical warbler habitat [inaudible] Very much seems to be nesting areas. This is a photo taken from a tree in tract 3 showing warbler. They tend not to wander very far from their nest. These photos were taken this year, close proximity showing the existence of warbler probable nests on the site. Now, how did this clearing happen? The city of Austin is an applicant, you know, and has duties to fish and wildlife under the permit. It's supposed to report development projects to fish and wildlife that may affect habitat. Well, the clearing applications by the developer on tract 3 were rejected twice by city staff. Finally on February 29th of 2016, they were approved, and what you can see on there is the approval. Everything is crossed out. You don't have to fill out anything. Nothing else really applies. Okay per champion agreement. That seems to be the general rule here is when it comes to following the law, complying with, you know, all the procedures that are required, it doesn't seem to matter because it's all okay per a champion agreement.

[2:17:52 PM]

And in fact that's not what the law is. There's very important laws here that need to be followed. There's a possibility if anybody wants to pursue it as a citizen suit pursuant to the endangered species act for the clearing that's already occurred, please do not vote for this zoning amendment. It's illegal, it's unlawful, it's inconsistent with state statutes and the city's own laws as well as creating some problems under federal law also. Thank you very much.

[Applause]

>> Mayor Adler: Thank you. The next speaker is Marisa Ipture. Jillian McLane. Your time this week. Mary Ellen Fagin. Sandy Kretzinger. You have 15 minutes.

>> Good afternoon. My name is Marisa Ipture with the shepherd mountain neighborhood association. I'm here today because I want to address not just you, your honorable mayor and councilmembers, but also to this minority, minority group of folks in our community who apparently have some doubts about why we are opposing this rezoning issue.

[2:19:53 PM]

So I have a very short story to share with you all. When my husband and I first heard about this rezoning case a couple years ago, we received notice because our property is within 500 feet of champions tract 3. That's the reason why we found out. So we immediately got in touch with people who were connected to this case. Very, very involved with this case. And from various parts of the city and organizations, and we were told to -- to just sit still. We were reassured that if we didn't act, we didn't

say anything, we didn't object, everything would be fine, our interests would be well represented, there would be no problems. We were told there were some developments come, we can't stop it. Apartments will be built. There's nothing you can do. And as a matter of fact, we were also told you might even get a couple things out of it because they might not be able to build on the eastern side of the property so we might get a commitment for you guys not to build on that side. So we thought about it and we tried to sit still, sit on our hands. And my husband and I talked about it and we said, you know, we might be okay maybe. We don't understand the ramifications of everything, but we don't feel right. We don't think we should just represent our entire neighborhood because it's going to affect everybody and just let them speak only to us. We started literally knocking on doors and we formed a neighborhood association. Good old-fashioned way. And we got people involved and we asked them how this would impact their streets, their homes and we learned it was impacting them in ways that we hadn't considered it would impact us all, and we all got together, we all put our hands on the table.

[2:21:54 PM]

And thank god we did because here we are almost two years later and where are we, what do we have? We have a project where the developer is proposing something that is ten times larger than what it's currently zoned for. What was it that Brad just said? He said they got an okay per champion agreement. I love what Jim Duncan showed. They pretty much got everything they asked for. Absolutely everything. But in the meantime, they are breaking all kinds of environmental and construction variances, they are getting variance, violations, watershed violations. 2100 car trips per day to our area. But meanwhile our neighborhood wasn't studied and we complained about that. The city of Austin -- I'll para phrase what the city of Austin staff said, oops, sorry, we goofed. Oh, we didn't intend to study your neighborhood anyway. Perhaps you can apply for speed bumps. 2100 car trips a day do have an incentive to cut through our neighborhood. The primary driveway will be on city park road, which -- which connects directly to west courtyard. West courtyard doesn't get the congestion 360 and 2222 get. These cars will come through west courtyard. That's about four times the number of cars that are parked in this garage right now. If this garage is full, and I'm assuming it is, try to picture that. So they are getting everything they've asked for. We were told that we would be represented. What are we getting? We have right now before you a restrictive covenant with an amendment that can be changed at any time in the future by one single person at the city of Austin.

[2:24:07 PM]

One administrator can change it in the future. So these promises that were made to us, don't worry, you'll be protected, we won't build on the eastern portion, don't worry, we can't study your neighborhood, but don't worry, those cars won't cut through, don't worry. We're going to endanger your welfare and well-being, ruin your community, but you are getting, wait, we're getting one inning this, I forgot, we're getting 100-foot setback. I think that's pretty secure from our neighborhood. In the early 2000s, the city council granted our neighborhood 300-foot setback. I don't know why it can only be 100 this time. So all this in the name of what? Economic development, imagine Austin, affordable housing. Oh, wait, it's not affordable. It's not going to be affordable. So we've got that one little bone, the 100-foot setback. We deal with a tremendous number of last-minute documents red lined, 25 pages of documents to read, sort through. We are citizens of this community. We have full-time jobs. We are parents. We care for elderly parents. We have children in school. We are busy. And I know y'all are busy too, but we expected to be as well represented as the developers have been. And we don't feel that way. So not being lawyers, we've done the best we can. We want to make sure you all understand very well today that we are not happy constituents. We are deeply, deeply unhappy. We do not feel

represented at all. And we ask that you please listen to everyone today carefully and to all of these arguments. And to deny this rezoning. And I will end my presentation with only a short video that was put together by the city park, our city park neighborhoods who we've also been working with and support in this effort.

[2:26:19 PM]

>> 325-unit apartment houses proposed for the corner of fm 2222 and city park road, the neighbors want to know if a proposed driveway on a blind curve is safe. The developer's traffic engineers, calculated more 400 feet [inaudible]. Using chalk the neighbors marked the driveway. Next we marked off 400 feet in 100-foot increments. Measuring stopping distance. Nation then ran the test revving the car to 40 miles an hour and checking to see if there is enough sight distance. 40 miles per hour.

>> Look for Carol on the left at the driveway.

>> 300 feet, 200 feet, 100 feet. There's Carol, driveway.

>> If you drive it, it's obvious it's unsafe. The 400 feet assumes perfect driving conditions, no rain, and for passenger cars only, not rvs, trailers, trucks, kids on the way to the park.

[Laughter]

[Applause]

[2:28:28 PM]

>> Mayor Adler: Linda Bailey is the next speaker.

>> [Inaudible]

>> Mayor Adler: I'm sorry?

>> [Inaudible]

>> Mayor Adler: You do. Is Edwin Huber here? Donating time today. As well as Lauren Sherwood. Okay. Aaron burgess. Is Aaron burgess here?

>> She had to leave.

>> Mayor Adler: Okay. Linda Salman. I have you with nine minutes. Two people are donating time today in lieu of speaking next week.

>> Thank you, mayor and council. Could you bring up that one chart?

>> [Inaudible]

>> Mayor Adler: What is your name.

>> Tracy Dahlberg.

>> Mayor Adler: Tracy dah lberg. We'll the -- take you up to 12 minutes.

>> Laurie Moore.

>> Mayor Adler: Laurie Moore. Okay. You now have 15 minutes.

>> I won't take it, I promise. Thank you. Thank you neighbors for coming out today.

>> Mayor Adler: You need to speak into the microphone so we can hear you watching on TV.

>> Thank you neighbors for coming out today. There are eight neighborhoods represented down city park road here today. We have folks from jester, river place, and I've spoken to people in long canyon that are against the rezoning. But it's not only these neighbors that are involved. It's not only the neighbors that drive down city park road that live there. It's the folks from east Austin, north Austin, west Austin.

[2:30:28 PM]

Folks come and camp at Emma long park. They come and enjoy the water at Emma long park. It's one of the nicest parks in Austin. One of the most natural parks. Bull creek park is close by also. Emma park represents all of us. We're very concerned about safety and we make a big distinction in our mind between safety and traffic. Ms. Hart, I want you to know that I asked the traffic engineers where is the safety standard, where is the procedure I can look to assess safety. The city of Austin does not have a safety assessment. It's optional. It's optional now. Sometimes it's required at site plans, we're reviewing site plans, but we don't have a checklist. We don't have something we can look at to say this ensures that the driveway there is going to be safe. The way we look at safety is to look at vision zero. After there are deaths, after the design is assessed poor, after there's lots of accidents. There is a way to look at safety, but not now when we need it. Without a safety standard to the citizens it feels arbitrary. It doesn't feel fair. Somebody can just make a decision. We are here because we live here, we know it's unsafe. I ask kimling horn to help me with this and they did. They are very intelligent, capable people as far as I can tell. They did a study which they called a sight distance study.

[2:32:31 PM]

It is not a safety study. It says how much distance do you need to see. You saw in the video you couldn't see. They are going to cut the trees down so maybe you can see. All right? It doesn't consider hazardous road conditions, it doesn't consider rain, it doesn't consider ice. It doesn't consider unique vehicles. And it doesn't consider speeding vehicles. It doesn't consider the motorcycles, it doesn't consider the bicycles that have no bicycle path. I do appreciate the study that you all did, and I thank them for it. If you will look at the crossbar at 40 miles an hour, you'll see we need stopping distance -- stopping sight distance of 305 and 445 for design distance. At 40 miles an hour. How many teenagers going to city park -- to Emma long park drive 40 miles an hour? For that matter, how many adults? Okay. Actually kimling horn has given me data, too late, I don't know how fast people are going. But I do know 36% of the crashes that occur right there are above 40 miles an hour. We have that hard and fast data. We do know people go over 40 miles an hour and there's a distribution of speed. If you look at, for instance, 60 miles an hour, 55 miles an hour, there isn't enough even sight distance. But the sight distance is not a safety distance.

[2:34:32 PM]

It's not a safety assessment. And it's not our reality. In the last three weeks there have been four significant traffic accidents right by that driveway. Not up the street, not around, it's an unsafe area.

You're not only voting on rezoning, you are voting on

[inaudible] Today. Vote for the neighborhoods. Vote against this rezoning. Thank you.

[Applause]

>> Mayor Adler: Is Dennis here? Is Antoine yes and sherry? Do all of you want to donate your time today in lieu of speaking next week? Mr. Rumbo you have 15 minutes.

>> Thank you. My name is Jim rumbo. I'm president of the Westminster Glenn homeowners association. And all I can say at this point that I'm absolutely astounded and amazed by the detail and analytical work that my colleagues and neighbors have made on behalf of this project. I'm a busy guy and I have a lot of projects in the works, and I haven't been able to get into the detailed matters that they have engaged. But I wrote a letter to the council on October the 4th and I posted it in an email that I addressed to the council electronically and I would like to call your attention to those matters. We live in a land where we're -- where we're assuming that the rules we live under are followed.

[2:36:42 PM]

And what I've heard this morning or this afternoon again is that the city has denied the due process that is involved in creating this development. It's actually circumvented the rules and allowed for the changes in the development standards that have been worked over and fought over and costed for years, if not decades. And so someone who really is looking out for our neighborhood, it troubles me enormously elected officials are allowing this to happen. Even when it's called out in front of you. This is the part that really disturbance me. Are you so set on the development that you -- that you can't hear what's being said? Is the credibility of the cumulative voices that you are hearing to deny? What is it about what we are saying that causes you to say we've heard enough, we know there's bad stuff here, we need to stop and fix it. What you heard from all of these people is that we're working Har to come up with a solution. I don't think that's what it is. I think it's actually we're working hard to find out what really matters and how we should behave and what kind of development we need at that site. We know that what was agreed a couple of decades ago is not what is proposed. And as a resident of this town and party to some of the water quality and environmental work that has been done for many years here, I can tell you that the hill country sensitivity is threatened by this kind of development. Our very level of community is threatened.

[2:38:46 PM]

And it troubles me because it seems as though we are skirting what we've all agreed to follow. I know you all have busy and I know you are recently elected and I know the city is growing at a phenominal rate so you have a lot of moving parts. And I'm empathetic to that case, but with this kind of challenge is what I consider a opportunity. The opportunity lies in confronting this in answering the questions that you have right now before you. Engage the process of questions that come up and fix the development process with it. Specifically deny the request for rezoning on this because it's been demonstrated to you by a competent attorney who solved this question in a San Antonio court. Deny the rezoning request because the traffic counts exceed the traffic counts that were agreed to some time back. And I'm not speaking just for myself. Just to illustrate the level of concern I have, I got notice yesterday that Sheri Gallo requested that we have official notice from our neighborhood regarding this matter. Well, I scrambled around and I'm not a -- I'm not a social media type so I called one of the neighbors in my neighborhood and I said, can you do something about this to help me put this out into our neighborhood so we can actually get something done and back to the council? And I'll be darned if she didn't do it. Cubs and all. We're having the world series going on, we've got short notice. She uses some software called survey monkey and we get 100% response saying don't approve this revision.

[2:40:55 PM]

Now, folks, I got to tell you, that's an unprecedented vote in my neighborhood. We're lucky if we get 20. We got 100%. In eight years on the board, I got to tell you, this is important. And the fundamental part of it is we're talking about moving pieces here and there are a lot of them, but the most important thing that I see is the process that we're using. It doesn't seem to exist. We've got highly competent experts who are arguing vehemently over numbers, but we haven't connected the dots. And so my request is on behalf of our neighborhood and also on the rest of the neighborhood that uses Emma long park, my neighbors and friends down city park road, please deny this revision request. Thank you.

[Applause]

>> Mayor Adler: Is Eileen Jones here?

>> [Inaudible]

>> Mayor Adler: I'm sorry?

>> [Inaudible]

>> Mayor Adler: Thank you. Chris [inaudible]. Is Michelle Gallis here?

>> She had to leave.

>> Mayor Adler: Is Allison Baucum here?

>> [Inaudible]

>> Mayor Adler: Is Troy Robinson here?

>> Yes.

>> Mayor Adler: And is Mark Gagnon here? You all give your time instead of speaking next week. You have 12 minutes.

>> [Inaudible]

>> Mayor Adler: What's your name?

[2:42:56 PM]

Carol Morgan? You have 15 minutes.

>> I've lived -- owned property at Greenshores for 21 years. The proposed driveway for the new development is very close to two blind curves, one uphill and one downhill on City Park Road. And it is right across from the dog day care. A recipe for disaster. There is fast traffic in both directions. My own son at age 25 ruined his pickup truck at the very place where the proposed entrance is planned. Please consider the only viable alternative which is to widen that section of City Park Road from Courtyard to 2222. To five lanes. That's two in each direction. And perhaps a turning lane in the middle or an extra zone in the middle between the four-lane -- the two lanes. Also to remove foliage to increase view of traffic. At the same time, it would be good to increase the size of the right lane turn that leads from City Park Road to 2222 going east. It's a blind turn. It's very hard to see traffic coming from 2222 west coming into town. There's a blind curve there. An acceleration lane coming from City Park Road to get on to 2222 going east would help a lot.

[2:45:02 PM]

I feel so strongly about improving City Park Road between 2222 and Courtyard and that right -- improving the right turn from City Park Road to 2222 east with an acceleration lane that I'm willing to donate personally \$10,000 to the city of Austin to help make this section safer. On a less serious note, I have observed that people in this country drive on the wrong side of the road.

[Laughter]

[Applause]

>> Mayor Adler: Is Barry McCallister here? Would you like to speak?

>> I will wait until next week.

>> Mayor Adler: Okay. Carol?

>> Next week.

>> Mayor Adler: Next week. Patrick Scott?

>> Next week.

>> Mayor Adler: Laurie Slick?

>> Next week.

>> Mayor Adler: Kevin Stotts. Speak next week. Mary Ingall can speak next week. Brian Gara can speak next week. And Rosemary Miriam can speak next week. Is there anyone else that has signed up to speak wish to go speak today that I have not called? Okay. That gets us back up to the dais. Is there a motion to postpone this item until next week? Consistent with the applicant's request? Ms. Gallo makes that motion. Ms. Houston seconds. We're going to keep the public hearing open.

[2:47:05 PM]

With the understanding people who spoke today have already participated in the public hearing. Any discussion? Those in favor -- I'm sorry, go ahead.

>> Gallo: I just want to make a couple of comments. My council office and I have been working with neighbors since last December when the zoning case was submitted, and I want to thank all of you for taking your time to come down to be here today. You didn't have to do that. It is a very clear indication of your concern and your advocacy for the betterment of your neighborhood and your community and I really want to thank you for taking the time to do that. But I also want to point out and shout out and thank some of the following people who have been meeting with my office and city staff through all of the issues and concerns to try to work through this and get to a better place on this zoning case or at least have their serious questions answered. And if I may just read out some names because neighbors, as Mr. Rambo just mentioned, a lot of you don't have the time to be able to address this and spend time looking into it and spend time coming down to city hall meetings, and these are your neighbors and friends that did choose to do that and represent you. So if I may just read out some of the names of the people we've been working with. Carol Lee, Susan Kimbrough, Randolph and Marisa. Jim Rambo, allover Zimmerman, curbing Holland, Jeff Iuvic, Dan Prevelski. Peter and Carol, Jeffrey -- Jefferson, Rhonda Foster, Stu Robberson, Steve Wofford. Diana Miller, Travis Davis, Linda Bailey. If I failed to mention you, I apologize, but neighbors, you -- you have been represented well.

[2:49:09 PM]

They have spent, this group of people have spent a great deal of time working on this and working with our office in multiple meetings and I hope that you appreciate them and tell them thank you because they have chosen to spend a lot of their time on this. As someone mentioned that was speaking earlier, he did ask the 13, 14 neighborhood associations that are impacted by this zoning case to send to our office their official stand as a neighborhood or property or homeowner association on this case and seven of those groups have responded. Six of the seven were opposed to the zoning case and we hope that if you are members of the other neighborhood property owners associations that have not responded yet that you would encourage them to do that. I want to be very clear. I represent district 10. I represent all of the neighborhoods of district 10. It is very clear that the opposition to this zoning case is strong and that we need to be very -- we need to be very careful about the decisions we make. I grew up -- I grew up in this part of Austin. I grew up actually riding horses at Web Wood Stable on City Park when I was a child. That was a long time ago. This road looks exactly the same now decades later as it did then. It is a safety issue. It is something that the city needs to address from the standpoint of improving the substandard road. I appreciate the consideration offer by the gentleman that was here and I think certainly the city will take him up on that offer, but we do need to work on that and we need to be very careful about what we are doing when we are talking about adding traffic to this road that is already not able to handle the traffic that it has. I just want the neighborhoods to know that at this point I would not be supporting this zoning case. I think you have come clear with a very clear message with concerns about safety. I think it is up to the city to resolve the traffic issues and improve the road that would be impacted by this additional development and once again to the community I really appreciate you taking the time to come forward and address these concerns with us.

[2:51:24 PM]

We will continue to work with you on this and come to some resolution hopefully be being able to improve city park road because the city does have a responsibility to make that road safer for all of the residents that live there and all of the people that use that road to get down to the park as one of the members that spoke her mentioned.

>> Mayor Adler: It's been moved and seconded to postpone this until next week. Any further discussion? Those in favor -- Ms. Pool.

>> Pool: I guess I can hold my questions until next week, but I have some serious questions about the process that was followed on this and the pca that was developed and the timing. And the permit that was on one of the slides that Mr. Duncan showed for the clearance and the property and who signed that and under what authority. I just have a whole lot of questions. I would be happy to hold them, but I think there are some significant issues at play here. It's more than the safety of city park road. And in fact addressing the safety issues on city park road means widening it and straightening it out, I'm not sure that's an answer. So I will hold my questions until the 10th, but we'll be answering them and I hope staff is ready to answer the questions specifically on -- I'm really interested who signed the approval to start clearance on the property and under what authority. As a start. Thank you.

>> Mayor Adler: Anything else? Those in favor of the postponement, please raise your hand. Those opposed? Unanimous on the dais with Ms. Troxclair off. I think that gets us to 53.

[2:53:33 PM]

We have 15 citizens signed up to speak. Do you want to address this first, mayor pro tem? As people are leaving, if you could keep it down so we can continue on, we would appreciate it.

>> Tovo: So item 53 would take two actions as it's posted. It would both initiate historic zoning on 1618palma plaza and I'll talk about why I'm bringing this measure forward with three co-sponsors and initiate change to the code that speaks to the number of votes that are required. I want to say I have received really overwhelming support, not unanimous, I certainly have heard from you who have objections, but I've heard a lot of support in the community from neighborhood associations, from organizations for the second half of this resolution. For taking a look at the code and really adjusting what is inconsistency with how we usually ask our boards and commissions to operate. Typically they operate on a simple majority vote. For some reason the landmark commission is subject to two-thirds vote when rendering an opinion about initiating or recommending historic zoning and I believe that's something we should address. There are certainly different options for how to address that. And I'm -- after some reflection, I've decided it would make sense to ask our staff to look at a couple of those options rather than just one of those options. And so in consideration of that, I'm going to -- when it comes time to move approval, I'm going to move approval of this item just for the first half of this resolution with the intent of bringing back probably next week a resolution that picks up the broader question that was addressed. So just for the public's benefit but also that of my colleagues, the resolution that's before us has a be it resolved and be it further resolved and I'm going to make a motion when done with public discussion to move approval of the initiation but cutting the be it resolved to chapter 2511.

[2:56:03 PM]

>> Zimmerman: Then I don't have to divide the question.

>> Tovo: Then I don't have to vote against that. I can speak to the issue more directly later when it -- when we're back to the dais, but as we'll hear from some of our speakers tonight, you know, the landmark commission has had several struggles recently, but with regard to this case, they were not able to -- they had a majority of support for initiating it. It was, I believe, a 6-0 vote at their previous

meeting last week when they took it up. They did not have enough commissioners present at the meeting. Had every one of those commissioners voted in support, they did not have enough commissioners present at the meeting to recommend that case. They also didn't have enough commissioners present voting to -- well, they could not -- anyway, they had a series of issues that I've outlined in the resolution. But the fact is a majority of those present at last week's meeting supported historic zoning, but they could not move -- they could not move the case -- I'm sorry, they supported postponing it, yet they could not move forward on an act to postpone it because they didn't have enough commissioners. They needed six, only had four. A majority of them supported postponing but not enough were present to do that -- or enough of them were supportive of postponement to postpone. Then there was a motion taken to release a demolition permit which failed. They didn't secure enough votes for that to have been a majority position. There were a series of procedural issues. This case has not gotten a fair hearing, it deserves one. Our process allows for the council to initiate historic zoning and that's what we're considering today and I hope my colleagues will support it. I'll be happy to talk about more specifics with regard to the case often the different actions in our discussion period afterwards.

[2:58:06 PM]

>> Mayor Adler: You are moving just the be it resolved clause that the city council initiate historic zoning for the property at 1618.

>> Tovo: And the rest would be eliminated.

>> Mayor Adler: Is there a second?

>> Tovo: I would prefer to make it after public comment just as a matter of procedure. I just wanted to let the public know that that's the motion I'm prepared to make today. I'm not going to move approval of the resolution as it appears in the backup of. Q.so the testimony that we'll entertain will not be on the second part of the question but on the first part of the question which is whether or not to initiate historic zoning for this particular property. We'll deal with the broader subject next week when there's a motion in front of us.

>> Pool: And mayor, when that motion is made, I'll be happy to second it.

>> Mayor Adler: Okay. So I'll now invite the speakers that had signed up. Some of the speakers may have signed up to speak on the broader issue. Again, that's not germane to what we're considering now. The discussion should be just on whether or not to initiate historic zoning on this property. Mr. Zimmerman.

>> Zimmerman: Point of inquiry, is the property owner, property owners for 1618palma plaza, are they here? They are here.

>> Mayor Adler: So now we'll call the public testimony.

>> Good afternoon, mayor and council. I understood what you said that the second part of the resolution will be postponed until next week and therefore will not be germane to this conversation.

>> Mayor Adler: It won't be before us. It won't be postponed, it's just going to be brought up next week.

>> Tovo: Let me just say in a different form. It will come forward potentially as part of a different resolution, and so it won't appear in its particular context right now.

[3:00:07 PM]

>> Okay. Well --

>> Mayor Adler: Which is why we don't really want to discuss that today.

>> Yeah. I was just here to speak on the second part, so I will wait.

>> Mayor Adler: Okay. Thank you. Terry O'Connell. T-e-r-e O'Connell. Kay Gorley. Would you like to speak?

>> [Off mic]

>> Mayor Adler: Okay. Then you'll come next week. David King? Speaking to 1618 Palma plaza.

>> Thank you, mayor, mayor pro tem and councilmembers, and I'm supportive of this scale-back resolution, I'm supportive of the full resolution and look forward to coming back next week. I think this is a -- this particular case checks all the boxes. It's historic. The commission, in fact, in September had voted to initiate a historic zoning on it, in a degree, it was historic. So there's no question that it is historic. And it's also supported by the neighborhood. They want to reserve this house, and it's a fourplex. And you know I don't know how many times I've come up here to hear about let's preserve our infill. Let's preserve affordable housing that we have now. This one checks that box, too. If we can't preserve this one, I just don't know what we can -- what we'd be able to preserve, if not this one. So, you know, it's very interesting, you know, we're up here because the landmark commission does not really have enough folks there consistently to get the business done. And, you know, this council is ultimately responsible for that. Each of you make appointments. And, you know, I've served on a task force before and it is very frustrating to be a committed member of a task force here, that you appoint, and that the members -- the other appointees don't show up. That is disrespectful. It is disrespectful to the citizens of this city and to you.

[3:02:10 PM]

You made these appointments. And I understand if they're sick or they had emergency situations. I'm not talking about those. But consistently to not have a quorum there, or to have so few people there that they can't even address cases like this in an effective manner, that reflects back on the council. And so to that extent, the reason this is here is because the landmark commission has not been doing its job. So I'm asking the council to step in, hold your appointees accountable. Make sure that they're there at every meeting, doing the business that this city needs for them to do. And I appreciate that you give them the flexibility when they represent your district there to make their decision the best they see fit for each of these cases. I'm not telling you to tell them how to vote, but they need to be there to listen and to make a decision. That's the respectful thing to do to the citizens of this city and it's respectful to you all as well. Thank you very much. Ready Spigner, would you like to speak?

>> I would like to speak next week.

>> Mayor Adler: Mary Engle? By the way, speaking on this 1618 does not prejudice your ability to speak next week on the other part of the resolution. Of the new resolution that comes up next week.

>> Tovo: Yeah. Thank you, mayor. I just feel compelled to say it is going to be a differently resolution, not just this half.

>> Good afternoon, mayor, mayor pro tem, and city council members. I wanted to say that historic preservation is compatible with our imagine Austin comprehensive plan, which is the blueprint for our city. The historic designation of 1618 Palma plaza is within the scope of imagine Austin. On page 40, in imagine Austin, it says that under the topic, susceptibility to chain analysis regarding land use, that Austin has an active preservation program.

[3:04:25 PM]

I'm not sure this is true. I think we have an active demolition program.

[Applause] So if you haven't attended or watched a landmark commission lately, I would encourage you to do so. Something I dreadfully wrong. Our preservation process is in jeopardy, and this needs to be addressed, and I look forward to speaking next week. Thank you.

>> Mayor Adler: Thank you. Is Brad Rothwell here? I just need to call his name out loud. Tom Turkell? Is Zachry Armstrong here? Mr. Turkall.

>> May I ask a point of inquiry? Since we are the applicant for the demolition department and property owner, are we allowed to speak at the end of all the four -- of the proponent for initiation? And what time limit will we have to speak? Just so I understand what the ground rules are, because they seem to be moving every week.

>> Mayor Adler: I'm sorry, and I -- well, had you raised that question when we started off, I would have let you speak first and opened and closed, and I'll still let you close at the end of people speaking on this.

>> Okay.

>> Mayor Adler: And I think the custom is to give people five minutes to open, unless they need more time, and an ability to be able to close.

>> Okay. Very good.

>> Mayor Adler: It's like a zoning case. But in this case, we have let people, when it's directed to a property, given opportunity to open and close so I'll give you that opportunity.

>> Okay.

>> Mayor Adler: Five minutes.

>> Five minutes plus the assigned time, then an opportunity to close.

>> Mayor Adler: You'll have two chances to speak, you can open and close.

>> Mayor Adler, members of council, I'm Tom Tur tural.

[3:06:33 PM]

We've appeared at three historic landmark commission meetings, in response to the process that is appropriate for demolition permit application. The first meeting was cancelled due to our lack of a quorum. At the second meeting, Mr. Sadowski made a presentation recommending historic preservation. We made a preservation opposing that. And without any conversation whatsoever, the commission voted to initiate historic zoning. There was not a comment, one way or another, about that motion. We were surprised by that. That was perplexing. So afterwards we asked one of the commissioners, you didn't even talk about the merits, what was going on there. And he said, well, that's a frequent thing that we do because all we're doing is initiating the process to get Mr. Sadowski additional time to build a case through additional research and bring back his argument for why this is an appropriate case for historic zoning. He said Mr. Sadowski doesn't have time to do that on every demolition case because he has so many of them, so he waits to get a feel for which which ones the commission feels strongly about. So the next month he came back, but having done the additional research that he committed to do, he had determined that, in fact, this property was not a suitable candidate for historic zoning. To quote his staff recommendation, he said the building does not meet the qualification for landmark designation for historical significance. And it has been modified, so staff cannot recommend the proposed zoning. So, as mayor pro tem alluded, there were several motions. There was a motion to postpone. That failed to pass on a 4-2-1 vote. There were seven people there. Now, the mayor pro tem told you seven people were not adequate to take the action of a super majority, but David [inaudible]

[3:08:38 PM]

From the city legal department begs to differ with that. He has advised Mr. Sadowski and us that, in fact, when there are only ten seated commissioners, the super majority only applies to those seated commissioners, not the potentially seated commissioners. Now, I'm not a member of the city legal department, but that's the advice that they've given the historic landmark commission, that's how they've operated all year, and that's what he told us. And so there were seven members present, and had they all been in favor of historic zoning, it would have passed. So perhaps your problem is not so

much with the number of people there, but with the very existence of a super majority requirement. And if, in fact, you think that that rule should be changed, that's fine. But let me suggest to you that it's not appropriate after we have completed our process, after we've acted in good faith and done everything we were asked and supposed to do, to say, well, we didn't like that result, so we're going to do it all over again. You know, we're like the apple, and if you want to change the apple peeler, going forward, and peel apples differently from now on, that's perfectly understandable and a hundred percent within your prerogative, but I would suggest after the apple was peeled, it's too late to change the apple peeler. Now, the fact is that if you initiate -- it's not going to change a whole lot. It's going to come back to you in about three, four, five months. And you're going to need nine votes to prevail. Had everybody been at the historic landmark commission, it would have been, at most, a 6-3-1 vote because one of the members who was not there would have voted almost certainly against historic zoning. One of the members who was not there, the mayor pro tem appointee, Emily reed, was not there, she has, in fact, missed four out of the last five meetings. But the problem is that we're going to have to spend four or five months because the people who lost the fight don't like the result.

[3:10:40 PM]

This is a time-honored tradition in Austin. We've been relitigating and relitigating, change the rules and change the system and maybe put pressure on somebody because we want the result we want, and the end will justify the means. Now, if this was a great case for historic zoning, it would be one thing, but your chief preservation officer, the man entrusted with making these judgments that's done it for a decade or more, who is a committed preservationist, has said he doesn't believe it meets the test. In fact, what he said was -- let me see if I can find it. I wrote it down. Well, what he said was that he had -- [buzzer sounding]

-- Tried and tried and tried to objectify this but he couldn't find a way to make it meet the historic zoning. So I would ask you to vote this down today. But if you're not prepared to do that, at least give us a week to talk to you. I haven't had the chance. We've tried to reach out to many of your offices, but since this only came up last Friday, I haven't had a chance to even talk to you about this and show you why this is not really a good candidate for historic zoning. And we would at least appreciate that courtesy. Thank you.

>> Tovo: Mayor?

>> Mayor Adler: Yes.

>> Tovo: I have a couple questions for Mr. Turcal. I want to verify, you are not the R currently the property owner. Is that correct?

>> I'm not. The property owner is right over here [inaudible]. It's a partnership he represents.

>> Tovo: Okay. I think at the hearing you talked about one of the reasons why you were applying for the demolition permit had to do with the asking price having -- because the asking price was set at such a number that it was not financially viable to keep the house without adding additional units.

>> That's right.

>> Tovo: Can you speak to that point?

>> When the partnership bought this, they went to the city's website and found that it was a non-contributing structure to the old west Austin historic district, and, in fact, if you go to the national register of historic places, it is also listed as a non-contributing property in the historic district.

[3:12:51 PM]

And so they then went and talked to people at the city staff, in the intake department and various places to confirm that this was not a contributing property. Based on that information, they bought the

property, and it is zoned mf-3 today. So they expect and are requiring a market price consistent with that zoning, and the fact it is not a non-contributing -- it is a non-contributing property in the historic district.

>> Tovo: I would just say that there's a discrepancy on that. There's not agreement as to whether or not it's contributing, and I think in your testimony at the historic landmark commission, you pointed out that there are four different maps that the history center would show it. We have an affidavit from someone involved in preparing it that I think we'll hear about later, I think that is just a point of disagreement but I wanted you to talk with the council about the point that you made at the hearing was that for -- one of the reasons your applying for the demolition permit has to do with the asking price.

>> There is certainly conflicting evidence in the historical record. But at the end of that process, it was listed as non-contributing by the national register of historic places. And so whether there were disagreements along the way or not, at the end of the day, it ended up non-contributing.

>> Mayor Adler: Okay. Thank you. I think that tere O'Connell is here. You want to speak?

>> Tovo: Mayor, I would also say I think we probably need to hear from legal staff. I got a different legal opinion about whether that vacant spot that's not yet been filled actually counts towards the total. I was told it does because there's a provision in the code that carries over -- that that commissioner, though that commissioner is no longer coming to meetings, because there's a holdover provision in the code, that person still counts toward the total.

>> Mayor Adler: Okay. Ms. O'Connell?

>> Okay. Thank you, mayor and councilmembers.

[3:14:51 PM]

My name is tere O'Connell. I'm representing preservation Austin today. We are the local non-profit for historic preservation issues in Austin and appreciate being able to present to you on this issue. Preservation Austin supports reconsideration for the initiation of historic designation for 1618 Palma plaza. This is a four-unit apartment building whose massing style and character reflect that of Palma plaza and the surrounding historic neighborhood. It is an excellent example of an older property that provides much-needed affordable housing and density for the area, while also being quite compatible with the historic neighborhood context. Should this property be confirmed by the Texas historical commission to be contributing to the old west Austin national register district, a point that's in dispute as we've talked about, certified rehabilitation of this property could qualify for both state and federal tax credits. Further, rehabilitation of the building would not preclude additional development at the rear of the site. Rehabilitation of this property would support several city of Austin priorities, including sustainable reuse of existing materials, affordable housing, and downtown density, not to mention historic preservation. The neighborhood association has been vocal about their support of local designation, especially since this neighborhood in the old west Austin national register district has seen a number of demolitions recently. These continued demolitions negatively impact the character and vitality of this important neighborhood. The initiation of historic designation would simply refer the property back to the historic landmark commission for review, and as stated in the proposed resolution, be reviewed and voted on by at least eight commissioners. It would be unfortunate to lose the fabric of the neighborhood due to procedural circumstances that we experienced last week at landmark commission. All 1618 Palma plaza is an important case, the current distortion and challenges of the historic landmarking and district designation processes point to several procedural concerns that apply quite universally to the administration of public policy and the historic preservation program citywide.

[3:17:02 PM]

Preservation Austin is providing a second letter of support that addresses these preservation ordinance and process issues. We appreciate your attention to this matter and hope for a positive outcome. I understand that you're deferring that second component to next week, and so we could save that discussion for later, but we did have several suggestions for procedural changes that you might consider as well. Thank you.

>> Mayor Adler: Is Frank Herron here? Mr. Herron?

>> Always, your honor. I attended to speak to the amendment of the developed code as well, but those of you who have known me know I don't ever turn down an opportunity, regardless of the topic. I can connect imagine Austin to just about any conversation. As to 1618 Palma plaza, I want you to know, I'm just as supportive of saving historic buildings as anybody. I had an opportunity a week or so ago to tour the old Millet Opera House. That's where the Austin Club is a tenant right now, and it has a fascinating history. It's been designated historic all the way from locally up to the federal government. It's truly historic, and I would not ever advocate to tear that thing down. We're talking about an old fourplex, though. I have been around a while, and I have watched this historic designation process at the city of Austin level be abused over and over and over, as a vehicle to stop redevelopment and growth. That's what this proposal is about, and the mere fact that it was bifurcated shows that's the motive. The same four sponsors of this proposal are the ones that voted against introducing ads in our residential areas.

[3:19:11 PM]

This is about the desire to keep our residential areas from changing like they need to change. And every time you bring a proposal like this and vote for it, you are further deepening our lack of housing supply and, therefore, our affordability crisis. All of you campaigned that you would do everything you could to increase affordability. This is ridiculous. I agree with Mr. Turkel. He didn't use that word, but I will. And I've seen Steve Sadowski make a number of presentations over the years, and he is not stingy with recommending historical status. And if he says this isn't historical, I don't even need to drive by I know it's not. What is the motive here? Well, this -- I've got a copy of the Bible, too, and it's been used so much, it's in seven pieces right now. And will get worse. And I have a different view. This document says that y'all are legally bound to reduce sprawl and increase redevelopment in the central city. It says we're going to accommodate between now and 2039, 610,000 new people. And your first duty is to look at this and decide does this proposal support that objective, or not? It's not up to you, personally, it is your legal obligation.

[Buzzer sounding] And if -- well, as usual, I ran out of time, but thank you for listening.

>> Mayor Adler: Thank you. Scott marks?

>> Tovo: I believe councilmember Zimmerman had a question and I did as well.

>> Zimmerman: So, Mr. Mayor, I just wanted to add to the remarks here, I'm going to be voting against this resolution. I do support the property owner on this.

[3:21:12 PM]

I guess I come from a different place. I think my duties to obligate -- is to the rule of law, the constitution, and my constituents, but in any event, we're on the same page, probably for different reasons.

>> Mayor Adler: Mayor pro tem?

>> Tovo: I had a question for Mr. Herron. Mr. Herron, you made a comment that said the bifurcation of the resolution demonstrates that this was an effort to prevent growth. Clearly, I disagree with you, but I would at least like to understand --

>> It's not -- bifurcation was probably an improper term. What I meant was that we were creating two votes out of one. One had to do with the historic status of the property, and the other was about allowing the demo permit. So if you have a property that is not on the first vote determined to be historic, as I understand it, you would then need a two-thirds majority in order to permit the demo to go forward, irrespective of historic status. I may have an incorrect understanding, but that's what I was referring to.

>> Mayor Adler: And I think that probably goes to the second half of the ordinance, which really isn't in front of us now.

>> Tovo: It does, except that there are multiple votes with regard to these cases at the landmark commission, but that's maybe a conversation for another day. There's one to initiate, then there is a vote to either recommend or a vote to demolish. So, I mean, it is already a multistep process, but thank you for that --

>> Okay. I'm just seeing them as more connected, but I apologize if I went beyond the scope.

>> Mayor Adler: Thank you. Scott marks.

>> Mr. Mayor, councilmembers, my name is Scott marks and I'm here as the chair of the old west Austin neighborhood association. You know what, here in Austin, as austinites and as Texans, we're real proud of our heritage, whether it's the moonlight towers or Angelina firing a cannon to save our archives on congress avenue.

[3:23:23 PM]

You know, we didn't preserve the historic character of our city or of our neighborhoods by sitting on our hands. We were proud of it, as Texans and as austinites. Our neighborhood has applied to the national register for historic districts, and we haven't been shy about coming down to city hall and expressing our pride in that historic architecture and in our community values, as well as associations between buildings and important people in our city's history. Last week we were even proud enough to show up when eight commissioners did not. We sat there for hours, waiting to make our case. Again, you know, we'll talk about fairness later, but to me it's just due process that if you don't have enough commissioners there, you don't hear a case. That's just, to me, Texas fairness and due process. And, you know, imagine last night if the -- if the baseball commissioner had announced that not enough umpires showed up, so Cleveland wins. Right? There would be a lot of angry people in Chicago today. Let's talk about 1618 Palma plaza, since that's what we're here to discuss. It is contributing to the old west Austin historic district. The architect who submitted the application to the national register has said and given us the chart that he prepared showing that this is contributing. It is Spanish colonial architect architecture. It's tied to our community. If you haven't driven Palma plaza or walked on Palma plaza, please come walk down Palma plaza with us. This is a unique part of our neighborhood, and it deserves to be more, as I call it, Spanish colonial cowboy than shiny brand new content.

[3:25:27 PM]

Second community value that is expressed by this building is affordable housing. The units in this -- in this 85-year-old building lease for about \$1,300 a month, and there are not a lot of apartments in old west Austin leasing for \$1,300 a month. And, you know, we pride ourselves on being a mixed income neighborhood. That's something that has been part of the history of the neighborhood. Van zandt lived in a trailer in our neighborhood. We still have trailers in our neighborhood, and we're proud of that. We're proud of the fact that we have old buildings and old units and we have diversity of income, of race --

[buzzer sounding]

-- And of ability as a result. If I could just leave, I might have just a few more comments.

>> Mayor Adler: Go ahead and finish your thought and try to get --

>> The final point I'd like to make, we only need two criteria for historic zoning but I'll give you a third, associations with important historic figures. And unfortunately, I think that maybe the landmark commission is a little overwhelmed and we don't have time to explore some of these associations. But we've shown that there are two very important figures who were associated with this building. One is a gentleman named before us Bledsoe. He was a federal judge and commissioner --

>> Mayor Adler: Can you name the second person?

>> Yes. Frederick duycalley who was instrumental -- he was a professor of medieval history and he's instrumental in creating plan 2 programming.

>> Mayor Adler: Thank you.

>> Thank you very much.

>> Mayor Adler: Next we'll be right back is Megan meisenbach.

>> Thank you, council for considering this rezoning to historic. Appreciate your being here today. Most of what I was going to say has already been said, so I'll be real quick. But there has been a waiting list to rent this property by individuals since the 1990s, and it is more affordable than a lot of things.

[3:27:30 PM]

So I think it does contribute to the neighborhood in several ways. Not only the way it look, but the way it functions. Thank you.

>> Mayor Adler: Thank you. Is Maureen metower here? Is Debra Holbrook here? You have six minutes.

>> Thank you, mayor and councilmembers, and actually Ms. Holbrook might want to say a word or two, so I won't take that whole six minutes, but my name is Maureen, I'm a resident of old west Austin. I'm also the zoning chair, I'm former member of downtown commission and former co-chair of school and family work group of the joint subcommittee, on I have a lot of history dealing with a lot of stuff here in Austin. I'll tell you zoning is definitely a big part of that. And the key reason we're here today is because to councilmember tovo's comments, this property has not gotten a fair hearing. There's been a lot of misinformation that's gone around about its integrity and about its contributing status to our neighborhood. The historic preservation officer himself has given mixed signals about this property. Came out glowingly, talking about how rare it is, how interesting it is, came back a month later and said, nope, it doesn't matter, we should let it go. But the person who wrote the national register application says it's contributing. These are volunteer efforts that get done to get national register district status in Austin. There are mistakes that get made. It's a volunteer effort. I'm not surprised that there's probably multiple attributions for this property. It's also been continuously occupied. I think Mr. Sadowski indicated that it's vacant, suggesting that it's in bad shape and no one it is to live there. That is not the case. People have been renting that. Some people have moved out recently. I'm sure others would jump at the chance to move in at that price tag. It's also historically intact. There have been very minor and certainly reversible modifications made to this building which Ms. Holbrook and some other folks have uncovered.

[3:29:39 PM]

It should be in your backup, hopefully. It stays intact, and it is in the context, as Mr. Marks told you, of Palma plaza. There are Spanish colonials all around it. It fits very nicely. And I should add that iwana does not oppose doing additional units on this property. In fact, that was our suggestion from the get-go, instead of tearing this down, there's space, can you add on? Your grandfathered under some of the zoning rules if you save this building. If you don't, you're under some new restrictions. And this property

has restrictions, not the least of which are very large historic trees. The other thing to mention is that it does meet the community value and the architectural designations under the -- under the historic landmark code. It is a historic fourplex. It was built as a fourplex. There were a lot of them. There aren't anymore. They're getting torn down, left and right. This is one of the few intact remaining around Austin. And as Mr. Marks told you, it does have some significant historic associations which we feel were not significant -- were not researched as thoroughly as they might have been, the key of which is Frederick Dun Caff who was instrumental at UT. These associations are worthy of further research. And this property is very important --

[buzzer sounding]

-- To affordability, too. I'd just like to add one last thing. You know, the American planning association named old west Austin one of its ten great neighborhoods in 2007. It's the only neighborhood in Texas that got that designation, and we're losing it, piece by piece.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Michelle Weber?

[3:31:42 PM]

>> I have a good friend that used to live in the Palma Plaza apartments, and she talked about what a magical place. There was a waiting list, and it's very unusual, historic, multifamily building for Austin and has provided affordable housing since the 1930s. So I would just ask that we be given more time to work with the developer -- I'm sorry, I'm nervous. I just got here. And it's just a really special apartment building, and it has provided affordable housing, like I just mentioned. So, anyway, thank you for your consideration.

>> Mayor Adler: Thank you. A moment ago Megan Meisenbach spoke, and Michelle Maureen Metower had said that you were donating -- is that right? That you were donating time, but you also wanted to speak? The speaker that spoke just a moment ago was only given three minutes, so if the person who was associated with that person would like to speak, there is time for you to speak. So we did that because you really can't get partial donation of time from somebody and then use the rest of the time, so we treated that as a three-minute speaker and then with an additional person.

>> I'm Debra Holbrook. I live across the street, 1615 Palma Plaza and specifications 1615 Palma Plaza.

[3:33:42 PM]

I apologize, I signed up to speak, but my research has taken a life of its own and I needed to go ahead and speak, so I reentered that so you may run across my name again. This all began with a demolition permit request that we were all very, very shocked to see. There's overwhelming opposition. Meet neighbors -- I have 25 interested party opposition letters here. But what I discovered in all this research is so much incorrect information, and the more I investigated, the more I found the correct information. And Tom, high respect tremendously, said something that resonates, that Steve Sadowski doesn't have time. He is overwhelmed with this -- the number of demolition permits. It's very difficult to reach Steve. His voicemail is usually full. I left a message for Callen for Callen. So much was talked about big modifications made in 1995. The man that did that do I do in 1986, but his sister Dixie sent me very documented detailed information and photographs, before photographs, that are clearly not -- they were not major modifications. He did -- brought everything up to code, electrical, plumbing, roof, foundation. He went before city council. You guys approved what he was doing. So those pictures I did not get to Steve until 1:00 P.M. On Friday because I went and sat in his office after I read his agenda where he had said he was not recommending historic zoning, but he did not have any information. And I

just feel like it's important to give us more time to research -- you know, to research all of this just a bit more. It is very time-consuming.

[3:35:43 PM]

I was at county clerk's office this week. That's how I discovered that Frederick duncaff, in 1953, he actually bought it in 1937, which tracing back on microfilm at 5:05, they finally let me print with that evidence. And he's very significant figure. 1936, plan 2 honors program at UT, he originated. And if you Google university of Texas, Frederick duncaff, I stopped at ten pages. He's very -- so there's a lot more research that I believe needs to be done. Terry myers, me hero, has recently done a nomination, specifically with flower fourplexes, how they were so ubiquitous in Austin. It's a rarity, and this is one. [Buzzer sounding]

>> Mayor Adler: Thank you very much.

>> Any questions? I may have the answer.

>> Mayor Adler: Thank you. Those are all the speakers we have signed up to speak. Rick Cofer was signed up not to speak four, three people signed up not to speak against. That gets us back to the -- to the -- oh, sorry, rebuttal. You can close.

>> I'll be brief. So, Zach is going to pass out a photo of what the home looks like. You've heard about how historically significant it is, what an architectural masterpiece it is, Spanish colonial, you'll be able to see for itself. It does not have a tiled roof, it does not have arcade, it does not have plaza, it does not have ornamental windows. The little bit of tile roof over the porch was added in a renovation. The columns of the -- they're not -- don't have anything to do with Spanish colonial. There are a couple of decorative inserts that were part of the remodel.

[3:37:49 PM]

They're art deco in nature. The problem with this building is that it has no discernible architectural style. And while it may be true and is true that every historic building is old, not every old building is historic. And this is what Mr. Sadowski is telling you. This is not a historically significant building. Thank you.

>> Mayor Adler: Thank you.

>> Casar: Mayor?

>> Mayor Adler: Yes.

>> Casar: I had a follow-up question. Maybe you are shaking your head at something else, but when there was conversation around the rents at this -- at this location and the relative -- I'm sure, it provides some diversity of housing type, which is a good thing, but also a diversity of incomes, y'all were shaking your head at the rent numbers. I know you don't own the property so you may not be the right person to answer the question on what the going rents are, but does the landowner have that?

>> [Inaudible]. The also units that we rented was for 1350 a month, and it's for 550 square feet, one bedroom. That is not affordable. I can tell you whatever happens with this building, it is going to get more and more expensive. It's not going to get any more shape, it's redone in any manner, it's going to get a lot more expensive, so the affordable argument is ridiculous.

>> Casar: So it's a fourplex and four one-bedrooms --

>> Four one-bedrooms that are exactly alike, they have 1980s kitchens inside. It's half full right now. There's never been a waiting list since I've owned it. It's somewhat hard to rent because it is expensive for the condition of the units.

>> Casar: Thank you.

>> Thank you.

>> As important a consideration as that may be, it may not be appropriate in the consideration of whether this meets the requirement of the historic zoning preservation ordinance.

[3:39:51 PM]

>> Casar: Understood.

>> Houston: Mayor?

>> Mayor Adler: Ms. Houston?

>> Houston: Thank you, mayor. You know, some of the folks in the audience are dear friends of mine, but, you know, I get really offended by the notion that if communities want to keep some of their built environment, that they are antigrowth and I don't want to have the density that another group thinks is appropriate for that area. And I just think I needed to say that, because what's historic to one group of people may not have the same kind of historical significance to the people who live in that community. And so it may not be architecturally the way that you think it should be, but it may be a touchstone for the community that it's located in. And I just need to say that we cannot continue to say, well -- point fingers at people because they want to save something that is historic in their community and that has special significance to their -- the people who have lived there.

[Applause]

>> Mayor Adler: Is there a motion to be made? Do you want to make a motion?

>> Tovo: I do. I actually have a question, though, for Mr. Armstrong.

>> Mayor Adler: Okay.

>> Tovo: Mr. Armstrong, how long -- if you said it, I missed it. How long have you owned the property?

>> Three or four years.

>> Tovo: Okay. Thank you. Mayor, I'd like to move approval of this item.

>> Mayor Adler: Mayor pro tem moves the initiating historic zoning for property located at by Ms. Pool.

>> Tovo: I'd like to speak the my motion and I may have more to say. One of the things that's unfortunate, we have not had the benefit of the staff presentation so we don't have -- we don't have the images.

[3:41:55 PM]

I have them all here. I've got a stack of information I've compiled over the last week, but I think it would be -- so I guess I would ask my colleagues to please reinstate this, or to initiate this based on -- based on the procedural issues. But if we need to have a conversation, if that's not compelling, I would be happy to have a conversation about the merits of this structure with regard to our historic landmark ordinance because I've got, you know, just in the last couple days that I've been looking, I've got information that I think is valuable. But let me just hit on a couple -- a couple points. We've heard some discussion about what Mr. Sadowski said or didn't say as -- as the speaker has talked about. He did say some very strong comments, positive comments about it when the commission decided to initiate it, when it came back to the commission, he did not recommend it. But these are the comments he said in his introduction to why he wasn't recommending it. He said it was built as a fourplex, as we've heard. These are close to his exact language, though maybe not right on the dot. It struck me that a building like this is so rare in this neighborhood, and it really shows not only the diversity of the housing types in the neighborhood, but this is a very rare example throughout the city. We have very few fourplexes or apartment houses. Then he went on to say, but you must be able to show more than that with regard to our historic landmark commission. He talked about the fact that it had been renovated in the 1980s, but the appearance of the building is very, very similar. We've seen the picture that Mr. Turkel handed out but I have pictures of what it looked like before, as well as after, at the historic landmark commission, some of the

community members testified and some -- and some architects, I believe, have confirmed that those -- the alterations are very reversible. Mr. Sadowski identified historical associations as the problem, that there's nothing to hang the hat on.

[3:43:56 PM]

He did, though, acknowledge that when you look through the residency list, the portrayal of people, it is a portrayal of people who lived in apartments in 1930s and '40s, and he said it really pains me, because it really stands out because it is so unique. As I look through, I believe it meets not just the architectural criteria that Mr. Sadowski acknowledges, I believe it meets historical associations, as well as community value as well, though he didn't agree with that perspective. But as you look through and look at the tenants -- and again, I've -- I've spent just a couple days doing this, you know, one of the real challenges with looking at historical associations, when you're talking about a multiplex, a fourplex, by my count, there's somewhere in the then neighborhood of 44 to 45 -- I may be, you know, double counting a few of these because I'm doing this here on the dais, but you've got that times two. Some of these were single, some of these were couples, but in the time period since 1932 when it appears around then, it appears to have been built, you've got dozens and dozens of people who lived in there. So when you're trying to talk about historical associations, you'd need to research -- you know, you'd need to research a whole lot of them. We heard from Ms. Me toyer and Mr. Marks about a couple of names that jumped out at them. One that jumps out at me on the list is fainter, there's a John fainter, a prominent figure in Texas, he's buried in the cemetery, politically active, I believe he was a child living in the house. At one of the interviews with him at UT where they're talking about his importance and significance and contributions, they talk about his father as having been in the construction industry, and that is, indeed, according to the research that Mr. Sadowski was able to do, he did very minimal research on each of these individuals who just really got it from the crisscross address directories that are over in the history center.

[3:46:05 PM]

But Mr. Wells fainter was indeed a construction superintendent, so I think it's probably the same family. Mr. Fainter, in this same interview, describes his mother as having been a trailblazer, somebody who went to UT and got a master's degree in the '30s. And she was the resident here. As you look at, as I look just very quickly, with the very limited research I was able to do, as I look at the residents who lived in this -- I know I'm driving you crazy, councilmember Zimmerman, but I'm going to do it anyway -- [laughter]

-- Sometimes you return the favor on other issues, you know, as I look over the collection of individuals who lived in here, this is the story of Austin in the 1930s and '40s. One of our commissioners at the landmark commission talked about -- she asked for a postponement. She said there was information she wanted to bring about the importance and the rise of the fourplex and the history of Austin during this period of 1930s and '40s, and it was happening, I believe, nationally as well. And that was one of her reasons for wanting to postpone, so she could tell her colleagues about how this particular structure was important in the development of different building types. And, again, that motion failed. One of the community members said, and I think it was one of the members who spoke here today, that she had additional information she wanted to bring. But as you look over the individuals who lived there, you see the history of Austin in this period of time. There was the gentle man who worked at capitol plaza's brand new TV -- he was a TV repairman, in the early '60s. There was the engineer from the paramount theater in a much earlier period of time. You see people who worked at Austin daily tribune, at Texas insurance, these are some of the businesses that were very important in building the economy here in

Austin. We have Bruce Bledsoe, who has been identified as commissioner and lawyer, the proprietor of Arnold distributing company, somebody associated with -- I mean, these were the industries that were important at that time.

[3:48:08 PM]

And so, you know, as you look over the historic association criteria and our landmark commission, it talks about the property having longstanding significant association with persons, groups, institutions, businesses, or events of historic importance, which contributed significantly to the history of the city. And I'm cutting -- or represents a significant portrayal of the cultural practices of the way of life of a definable group of people in a historic time. All of these people helped build our city, and it was a particular building type that was new in Austin, and of which we have very, very few examples left. This isn't testimony we've had here today, but at the landmark commission, some who are really more equipped to have this, to provide this information, talked about how if you look over palm plaza, the different bungalows that are there, different houses that are there, are particular expressions of Spanish colonialism, this structure really adapts that style to this newfangled, at the time, new apartment house. So, again, I think there's a lot of reason why this case in particular needs evaluation by a full commission for historic landmark significance. You've heard other reasons why it's important to hang onto it that talk about the fact that it is -- you know, other issues, I would just say it concerns me that we would make a decision about historic landmark significance and that we are demolishing structures because the asking price of some of these properties are so high that they can only -- the value can only be realized to the potential buyers by demolishing the structures that are on there that are important to our community's significance and building something else which will -- clearly, you may dispute whether the existing rents are affordable or not for that size apartments, but it is real clear whatever comes in its place, it's going to be more expensive.

>> Mayor Adler: Any further discussion on the dais?

[3:50:13 PM]

Ms. Kitchen.

>> Kitchen: I wanted to follow up on a question that mayor pro tem had earlier. I thought she was going to ask, and that was -- I'm trying to understand the procedural issue about what happened in front of the commission. I think you had said you were going to bring forward --

>> Tovo: Well, I think that Mr. Turdel got a different answer from an attorney than I received when I answered it, but what is clear is that Mr. Sadowski was providing information to the commissioner about how many were needed. But anyway, we can certainly ask that question. Because there was one vacancy, it's my understanding there was a holdover provision so eight commissioners were required for that two-thirds to be achieved.

>> That's right. There's a holdover provision under the Texas constitution so even though it's not filled, you count that on the number of people on the commission.

>> Kitchen: The reason I'm asking that question, I just would like you to go over again, my understanding is the reason for -- there's reason for asking to initiate this again, because it has been through a process. And so that's why -- what I'm trying to understand and get clear on why we -- you know, why -- the reasoning behind proposing to go through the process again.

>> Tovo: Thanks for the question. There were seven members present that night, one of whom abstained from voting, so there were six members voting on this case. Our code has a provision I wasn't aware of until last week after this case, which is that instead of a simple majority, the landmark commission has to achieve a two-thirds majority for the case to proceed forward. I don't know why it's

there. I don't believe it should stay there. It's not consistent with the thresholds we've established for any other commissions, but it is there in place for the historic landmark commission. So that would have demanded they have eight members present, and they -- they would have had eight -- they would have had to have eight members vote affirmatively for the case to have proceeded. They didn't even have eight there.

[3:52:13 PM]

They only had seven, one of whom was not participating in the vote. And this is the reason why Mr. Sadowski -- you know, not only the commission, were urging postponement, Mr. Sadowski stood up and said, at least once, possibly a couple times, postponement is the best alternative. You do not have enough members.

>> Mayor Adler: Ms. Pool, and then Mr. Zimmerman if he comes back. Ms. Pool.

>> Pool: Throughout all the conversation we've been hearing about all the December listings that are happening around town and we've been hearing them for some time now it sounds to me like that office is overworked. I'm wondering if there's enough staff in the historic preservation office in order to deal with the amount and volume of work that is flowing through that office, what with the changes and everything. What strikes me about this conversation here is that our staff did not have sufficient bandwidth to go through all of the research that is clearly necessary in order to identify what the true historic value -- background is, and to tell the story of the structure. And I'm thinking that we probably have done ourselves a disservice during our budget and assignment of ftes. We have not added -- I think we need to have an attorney who is fully briefed in historic preservation so that our staff have that level of expertise provided. That person should be at all of the commission meetings in order to be able to provide that level of expertise and direction, and I think we just flat don't have enough people with the research background and the training in this office to do the level of work that's clearly being required of them. And I think I would like to have a conversation with the city manager, with Ms. Hart about the staffing in this office to see if we could do something quickly to bring some additional hands to bear because I think that these cases are being harmed by the fact that we don't have sufficient staff with the sufficient expertise to dig in and be able to frequent case properly and fully.

[3:54:27 PM]

Mr. Sadowski does -- does the work of ten people, probably, is my guess, and that's not fair to him, and it's not fair to us, and it's not fair to the community. So I'd like to have -- maybe have a conversation about that to see what we might be able to do to shore up at the level of resource and staffing.

>> That's probably necessary.

>> Mayor Adler: Mr. Zimmerman? I'm sorry.

>> You wanted to say something first?

>> Councilmember Pool, I'll be glad to work with the assistant city manager over that area and the directors involved and we'll get a report back.

>> Pool: Thank you so much.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I'll tell you what upsets me about this so much in all of this talk. I don't think I've heard even a reference to the property rights of the person who owns the property. I want to take everyone back quickly to -- remember Kilo versus City of New London, Connecticut? That's already been 11 years ago. The bureaucrats and community of New London, Connecticut, decided some property owners were going to have to surrender their properties for demolition for big property development. And I want to say to the community here that opposes the property owner's right to tear

down the structure, you can find you are on the other side of this decision where a city government is forcing you to abandon your house so it can be torn down, so that somebody else, a private development company, a government entity, whatever it might be, in the name of the community, says that your property needs to be demolished so someone else can do something with it. I just don't -- I don't see any respect here for our private property owners. And this sword can cut both ways. You know, right now, the majority -- I think it's pretty clear, the majority, the community, wants to use government power to stop somebody from tearing down a structure.

[3:56:30 PM]

But it's just as easy for the government to force you to tear yours down, because the community wants to do something different with it. So you've got an uncomfortable choice. You either have to respect your neighbor's property rights to tear their building down, or you will not have rights to leave your building standing. I think this is a very, very serious issue. And, you know, our constitution is based around individual rights, not group rights. There's no such thing as group rights. There are individual rights. And if you don't respect the rights of that property owner to tear down the structure, eventually someone will not respect your rights to keep your property intact.

>> Mayor Adler: Mr. Renteria?

>> Renteria: Thank you, mayor. You know, this is -- this is something that I'm having a very hard time, because, you know, this is the first time I've heard it today. There's a lot of contradiction in testimony going on. I don't know who -- the director is not here. And it's also a question of, you know, can we hear this twice within the 75 days of historic landmark commission -- when they set the case? There's also legal questions going on. Can it be heard twice? Does the code allow us to do that?

>> Jerry rusthoven, planning and zoning. What we had before the landmark commission was an application for demo permit. And as said before, the commission voted to initiate that case, which just means it allowed Sadowski to do moriche. Then it needed two-thirds, needed to be recommended by two-thirds of the commissioners in order to move forward, in which case we eventually end up here as a zoning case, that did not happen. So at this point, we no longer have the case before the historic landmark commission. The resolution before you right now is to initiate a historic zoning case.

[3:58:33 PM]

So if this motion were to pass, we would then take it to the landmark commission again, and we would take it to tell us planning commission, and then to the city council just like we would a Normal zoning case. Case.

>> Renteria: So we're just initiating a whole brand new process?

>> You're initiating a brand new historic zoning case, yes.

>> Casar:I'll talk threw some of my thoughts here in a moment, but I want to understand a little bit of how the time frame works and maybe the mayor pro tem could answer this question for me. But if we were to think about this for, you know, postponement for a week or couple of weeks or what have you, what is -- what keeps us in limbo? If we don't pass this soon, can it just be demolished tomorrow? Or is there some period of time where the council -- does the council have to make this decision today?

>> The issue, I believe, would be having to do with the demolition permit for the house. Right now if the house were listed as a contributing structure in the national register district then it would be -- because the historic zoning case was not initiated, the demo permit could not be issued until the landmark commission reviewed the plans for the new building. That would just be advice they do not have to take but there would have to be a review. The house was not listed as a contributing structure in the national register nomination, however the person who submitted the national register nomination believes that

was a mistake and the house should have been listed as a contributing structure. So at this point Steve would like to hold the demo permit until the plans can be reviewed for the new building by the landmark commission. That was his intent. If you initiated the case right now we would not issue a demo permit because we would have a pending historic zoning case.

[4:00:35 PM]

>> Casar: Mayor pro tem, it looks like you were gonna add something. So long story short, if we don't make this decision --

>> There would probably be a follow-up discussion outside of the council between us and the applicant of the demo permit about -- I'd have to consult with the law department, frankly, about whether a demo permit could be issued or not. Whereas --

>> Casar: So jury is still out if we postpone this to next week's meeting, jury is still out on exactly what happens?

>> Yes.

>> Casar: And I would just -- now since I have the mic I'll explain why I'm bringing up that option in my mind, is because I agree with the gentleman -- I don't know where he wound up, that not having enough votes at the historic landmark commission doesn't seem like a fair process to get an up or down vote. But I also understand here that that's the process that we have set up and sending somebody back through that a second time because that process didn't work also doesn't seem like a great plan either, but I might be willing to take that kind of more extraordinary step if I really had a sense of the historic nature of the home and, as councilmember Renteria mentioned, I haven't had meetings with Steve or haven't seen his presentation, and, frankly, most of my attention on this resolution was on the second portion, which is much more significant that would affect many more homes than this one. So really in the little time between work session and now that I've paid attention to this and I think most - what I've heard from the rest of the council has been paying attention to the second part of the resolution, not the first part. And so it doesn't -- now that we are focusing on that first part, which is much smaller in nature, it doesn't seem fair the way it played out but I'm not sure it seems fair to send it back. So if we could think about that for a week that might --

>> Mayor Adler: Let me ask a question of the applicant and the property owner. Could we put this off for a week so as to afford you the opportunity to visit with council that you said you have not had a chance do and for councilmembers to look, will you not demolish this property over the course of the next week?

[4:02:45 PM]

Both you and the property owner?

>> We would absolutely commit not to demolish the property. And we can't. We don't have a demo permit. We would not ask for one or pursue it in any way whatsoever during the pendency of the -- week or two until the next meeting.

>> Mayor Adler: Does the owner of the property concur with that? Yes? Thank you. Ms. Gallo?

>> Gallo: You kind of addressed the same question that I had from the standpoint. I was concerned were, I mean, I think that certainly I'm a process and then I feel like one of the responsibilities we have as a council is to make sure that we give stakeholders and the opportunity to be able to talk to us before and when we are making decisions from the dais that impact them. And when I hear the applicant come up or Mr. [Indiscernible] Come up and say that, you know, last Friday he was made aware of this and he hasn't had a chance to meet with all of the council offices, I -- that would make me want to err in the direction of taking another week to allow that to happen, to give him the opportunity to actually visit

with all the different councilmembers about this. So I appreciate -- it sounds like what we're looking and getting a commitment for is a postponement for a week.

>> Mayor Adler: Mayor pro tem.

>> Tovo: I'm gonna urge we not postpone it. I don't think it's a subtle matter at this point of whether the clock -- you know, the process right now in our code and I think it needs some changes, but the process right now is if the landmark commission does not chief by a 2/3 vote in a certain amount of time a demolition permit can be released. I don't think we have a clear answer about whether or not that clock continues to tick. So I really -- I guess I would just suggest to you, our charge today isn't to decide whether or not this deserves landmark designation.

[4:04:48 PM]

It's to decide whether or not to initiate that and send it whack to the commissions that been tasked with doing that evaluation. I had a couple questions for Mr. Rusthoven. You talked about -- I just want to be clear. It's my understanding from going through the hearing pretty closely, they didn't actually take a vote as to whether or not to recommend historic zoning. What they took were several votes -- and I think I've got them if anybody is interested. They took several votes on postponement and they took a vote on whether or not to release a demolition permit that failed. So I want to be really clear. I think at one point you said they failed to recommend historic zoning and I guess that's accurate in that they didn't have a motion -- they had a motion that didn't get seconded and they moved on to the opposite side of that. So there was not a failed vote to recommend historic zoning. There was a failed vote for demolition permit.

>> Councilmember, mayor pro tem, I'd have to go back and relook at the video, but my understanding was there were three votes, one to recommend historic zoning that did not pass, one to recommend -- or to postpone it, which did not pass, and I believe there was a third one. I'd have to go back and look. I know there were several fours were 2-4, 4-2-1, but either way it did not achieve --

>> Tovo: We had a confusion in our office and went back just to try to get clarity on that issue. I do not believe they took a vote on historic zoning.

>> It has the same net result.

>> Tovo: Same net result, no doubt. I wanted to ask another question. It's also my understanding, as you said, staff believed that it was an error as to whether or not it was a contributing structure, which is significant, because that determines whether or not the plans have to go to the landmark commission before the applicant can actually demolish the structure. Again, they don't have an ability at that point to say you can't demolish the structure.

[4:06:50 PM]

They can just provide guidance on the plans.

>> That is correct.

>> Tovo: That speaks to the timetable for the demolition, not whether or not it would happen. Because the contributing structure identification has come up a couple times, I just want to emphasize that you said -- and I've got the letter here -- one of the architects who worked on it talked about the fact that he believes it was a mistake and it's my understanding that you can amend with the Texas historical commission you can actually amend the map. If one of the believe involved believes it was an error and our staff believe it was an error it can easily be resolved, it's my understanding, by a correction of the map. That correct?

>> Yes, but we'd have to work with the state and possibly the department of interior.

>> Mayor Adler: Okay. Further -- yes, Ms. Kitchen?

>> Kitchen: Mayor pro tem, I wasn't quite understanding the concern about postponing for a week. Because my understanding is, if I'm hearing correctly, that time period, so I didn't understand what you were saying. Can you -- are you saying it would impact the demolition in some way?

>> It's my understanding, and I'm not -- you know, I'd be more comfortable talking about this in executive session but there are time lines associated with our code and I'm not sure whether a postponement action halts that time line. And so whether or not it's going to be demolished, I mean they already have -- we already -- based on the commission's action last week, there is a clock. There is a clock moving.

>> Mayor Adler: The clock that's moving, that gives 75 days. If there's no action within 75 days then a demolition permit can be granted.

>> The 75 day limit is for the landmark commission. So if the landmark commission, if this case for instance were to go to the landmark commission, they were to postpone it, postpone it, postpone it, after 75 days the demo permit would have to be issued if they failed to take action.

[4:08:59 PM]

The 75 days as I see it does not apply to this resolution because this resolution would initiate a historic zoning case by the council and they would take that through the process again.

>> Mayor Adler: I guess the question I'm asking is a little bit different. I mean, I have two people who have stood up here in front of the chamber and said they're not gonna demolish the property in the next week. For me I'm willing to accept that. But I'm going back to the time lines that the mayor pro tem raised. Could they get a demolition permit in the next week?

>> I believe the issue has to do with the contributing structure. If the property were not a contributing structure and the historic zoning was not an issue we're obligated to issue the demolition permit. If the property is a contributing structure and the commission does not recommend historic zoning, then we may issue the demolition permit only after the commission has reviewed the plans for the new building. In this particular case, the property is not listed as a contributing structure but it is believed by both that it should have been. So I think there's some ambiguity about since it's not listed as contributing should the demo permit be issued now versus because the thought is that it should have been listed as contributing whether it can be held up by the landmark commission. In either case, I believe they said they would not pretty the issue in the next week.

>> Mayor Adler: With that said, the property owner and the applicant both saying they're not gonna demolish it in the next week, will you not grant any demolition permit in the next week?

>> Yes.

>> Mayor Adler: You would be the one to grant it, right?

>> Yes.

>> Mayor Adler: And you won't grant one in the next week?

>> I will not.

>> Mayor Adler: Okay. Is there a motion to postpone this for a week.

>> Zimmerman: So moved.

>> Mayor Adler: Mr. Zimmerman moves to postpone for a week. Yes, is there a second to the motion to postpone? Mr. Renteria seconds that. Now let's have discussion.

>> Tovo: I need to ask another question of Mr. Rusthoven and, again, I think there are some complications here that I really would prefer talking about in executive session but it's my understanding --

[4:11:07 PM]

>> Mayor Adler: Mayor pro tem, if you want to stop we can stop now and go back.

>> Tovo: That would be my preference.

>> Mayor Adler: Okay. Let's take a recess for a moment and we'll go back -- no, we're gonna go back.

>> Zimmerman: As an alternative I was gonna call the question but if you want to take us back, let's take us back.

>> Mayor Adler: That wouldn't be a good alternative at this point. We're going to take a recess for legal issues to discuss. We need to list the section number? We're gonna go back to executive session to discuss legal issues relevant to item 53 and then we'll be back. We stand in recess.

[ Recess ]

[4:13:47 PM]

] Executive session ]

[ Executive session ]

[4:35:32 PM]

>> Mayor Adler: Okay. We are now back on the dais. We have a quorum. We have concluded executive session, where we spoke to counsel about legal issues related to item number 53. It is 4:53. We are back in the room -- 4:35. We are back in the room. Would the applicant and property owner come up for a second? I have a couple of questions. I'm gonna begin with the question I asked earlier, and I want to know -- and if you both agree to this, then I want each of you to say it audibly for the record. If we were to postpone consideration of the mayor pro tem's motion to initiate historical zoning for a week, so we came back next week to consider it, do you guys -- would you agree that you and the property would not request a demolition permit in this intervening period of time?

>> Yes, we will agree to that.

>> Mayor Adler: Sir?

>> Yes, I will agree to that.

>> Mayor Adler: And that would be true even if you have a right to ask for one in this intervening period of time. Is that correct?

>> That is correct.

>> Correct.

>> Mayor Adler: Next week, when we consider this, we could very well grant the initiation of the historical designation process so that it can be studied. If we did, I want to know that you would waive any right you might have, if you had one, to ask for a building permit at that point caused by our one-week delay. In other words, I want to make sure that you're not going to in the future say, after we initiate -- if this council initiates hourly zoning review next week, that you would be in the next week asking for the demolition permit, claiming that because of the delay you're entitled to one. Is that correct?

[4:37:34 PM]

>> So there will come a time, if we are extended for 180 days, for beyond the initial, initial initiation, if that happened -- I mean, we will not waive our right going forward under a new case. I won't.

>> Mayor Adler: No, no.

>> Okay? But I will agree that we will not claim any right to a demolition permit under our application for a demolition permit. In the case that just wound up, we will not -- I will not carry any rights forward

from that into any new process should it occur. But I'm not willing to agree to waive any right going forward.

>> Mayor Adler: That's not what I'm asking for. I'm only you to waive any rights that might have been created by our one-week delay of consideration of this matter until next Thursday. Even --

>> So to be clear, I've agreed that we will not seek a demolition permit next week.

>> Mayor Adler: Right.

>> We will not assert any right to it, whatever you decide to do next Thursday.

>> Mayor Adler: Okay.

>> That's it.

>> Mayor Adler: And do you agree with that as well?

>> Yes, sir.

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

>> Zimmerman: Is there a motion here for a --

>> Mayor Adler: There's been a motion to postpone for one week and I think it's been seconded.

>> Zimmerman: I'd like to --

>> Mayor Adler: That's what we're discussing right now.

>> Zimmerman: I wanted to call the question maybe if we're ready to vote. We've been on this a while.

>> Mayor Adler: Okay. Those in favor of the postponement please raise your hand. Those opposed? I don't know that the votes are here to approve the postponement. Let's tang the vote again. Let me count them. Those in favor of the postponement, please raise your hand. There's six. Those opposed. No votes are Ann, Ms. Kitchen, pool, and the mayor pro tem, and Ms. Houston. The postponement passes 6-4.

[4:39:36 PM]

Item is postponed. Okay. Let's get to the next thing. So 3:00 we can do the Austin housing and finance corporation matter. Before wi do this agenda real fast, items 75 and 75 we can postpone and send staff home. Do we want to do those real fast?

>> Very much appreciate it. Good afternoon, mayor, council, mayor pro tem, I have two items for postponement, item number 75574 -- 74 conduct a public hearing related to transportation mitigation. We're asking to postpone to the December 15 agenda. And item 75 is a public hearing on the planning commission's approval of a waiver on 2510 south congress avenue. Ask to postpone that to the December 15 agenda as well.

>> Pool: I'll move for both items.

>> Mayor Adler: It's been moved to postpone items 74 and 75 to December 15. Is there a second to those motions? Mr. Zimmerman. Any discussion? Those in favor of postponement please raise your hand. Those opposed. It's unanimous on the dais with the mayor pro tem, Ms. Troxclair off. Thank you. Now let's take a recess of the city council meeting to go into the meeting of the Austin housing and finance corporation. So I call to order the meeting of that corporation.

[4:41:39 PM]

Today is November 3. We are in the city council chamber. The time is 4:40. Please proceed.

>> Yes, hi, Rosie truelove, treasurer of the Austin housing finance corporation. There are four items for consideration by the board today. The first is a approval of the minutes from the September 1 board meeting. The second is approval of a resolution appointing Elaine hart as the general manager of the Austin housing finance corporation. The third is approximate of an inducement resolution for bond

financing for a multi-family development located on shady lane within the east P.U.D. And the last is set a public hearing related to that same property and I offer all four items on consent.

>> Mayor Adler: Ms. Pool moves the four items on consent. Ms. Houston seconds them. Any discussion of the consent agenda? Those in favor of the consent agenda please raise your hand. Those opposed. It's unanimous on the dais with Mr. Zimmerman voting no. With the mayor pro tem and Ms. Troxclair off the dais. That concludes our business.

>> Thank you.

>> Mayor Adler: The meeting is over. Journey that meeting. We are now back into the city council meeting. It is 4:42. I think that gets us to the spay neuter item, item 66. We have some people that want to speak on this item, number 66.

>> Houston: Mayor, let me tell you briefly where this item comes from. This was referred from the health and human services committee on October the 12 on a vote of 3-0 with councilmember troxclair off the dais.

[4:43:48 PM]

And the motion was to approve presenting the issue of permissive spay and neuter on the first impoundment to the full council and that was seconded by councilmember tovo.

>> Mayor Adler: Okay. We have some folks in the public wishing to speak. The first one is Sarah Shannon. Is share are a shone non-here? Take your time. Ryan Clinton is on deck. No, no. Please come. I'm just letting him know he's gonna be up after you're done.

>> Good afternoon. My name is Sarah Shannon. I'm a volunteer and a mentor at the Austin animal center with the center's medium and large dogs. I speak today in favor of permissive spay and neuter on first impoundment, not mandatory, permissive. Those speaking in favor of this measure today are rightly frustrated by recent periods when intake has been closed temporarily to healthy animals and they see the measure before you today as a fix and it is a small, and I repeat small, step in the right direction. But there are other, better steps that you can take that would have a dramatic impact on the adoption of dogs at our shelter and on shelter capacity and that's the big issue here. And I want to ask you today to move on those. One of the biggest steps that you can take would be outlawing breed discrimination in our city.

[4:45:56 PM]

This would be a bold step, effective step, and one that would once again put Austin where it belongs. At the forefront of animal welfare. Working in the kennels with potential adopters, time and time again, I encounter people who are ready to adopt but who, because of breed restrictions where they live, are unable to consider a number of our dogs. And dogs that I know would make excellent companions. I work with these dogs all the time. Austin residents who want to open their hearts and homes to shelter dogs are limited by stereotypes and labels as to what pet they can choose. That's not who Austin is. And responsible pet owners encounter barriers to housing, barriers to housing, due to these breed restrictions. Any of the dog lovers here today speaking on behalf of this measure will tell you that breed should not be a major determining factor in whether an adopter can select a dog and take it home. Rather than pass today's proposal, I would ask you to direct your staff to draft and bring to the Austin animal advisory commission for consideration an ordinance that bans breed restrictions. In doing so, you would take an enormous step toward increasing capacity at our shelter, and that's the huge issue here, increasing capacity and we need to do what's most effective in addressing that. You would -- by doing that you would support the city's responsible pet owners and would-be adopters.

[ Buzzer sounding ]

>> Thank you.

>> Mayor Adler: Thank you very much. Ryan Clinton. On deck is Brenda Collier.

>> Good afternoon, councilmembers, and Mr. Mayor, my name is Ryan Clinton. The first thing that I want to say is throughout a lot of, I'm sure, the communications that you've received and -- has been -- in prior iterations of this, there's been a lot of attacking shelter staff, and I want you to know, as someone who handles these issues for ten years locally and nationally all over the country, I get asked to speak all over the country on this, you have an amazing shelter staff and I want you to know that.

[4:48:21 PM]

You have probably the best shelter staff in the entire United States. You need to know that your shelter staff gets called on a weekly basis for other cities that are trying to poach your staff from you, and I hope that you recognize the amazing staff you have by every objective measure our shelter is better than it was when our current management got there. And by every objective measure it's the best of any large city in the country, and I hope that you know that. My concern primarily with this proposal is that it puts the shelter staff in a lose-lose situation. It is not clear from this proposal whether the council intends the shelter staff to put their thumb on the side of forcing owners to spay or neuter their pet against their will. It's not clear -- it says discretionary, but it puts the discretion on the staff. And then it's unclear from the staff what is it that you want them to do? Do you want them to force owners to do it against their will or not force owners to do it against their will? If you don't there's no reason to be here because they already have the ability to do things voluntarily with the content of the owner-- extent of the owner. If you do want them to, say so, have the guts to say it, put it in there and you guys deal with the political ramifications of somebody's pet dying on the operating table who didn't want their pet spayed or neutered at the shelter. At least take responsibility for making somebody go through that decision rather than putting it on shelter staff. What I don't want is three, six, nine months later shelter staff getting roped in here, having to go before you to be told you aren't forcing enough people to spay or neuter your animals or forcing too much to spay or neuter their animals against their will. Whatever it is you want them to do, tell them. That's all I ask. Thank you.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: We didn't talk before this meeting, but you said exactly what I was thinking, and we didn't talk, right?

[4:50:22 PM]

>> As far as I know we didn't.

>> Zimmerman: You said exactly what I was thinking, so thank you for saying it. Now I don't have to say anything.

>> All right. You're welcome. Thank you.

>> Mayor Adler: Brenda Collier and [indiscernible] Is on deck.

>> Good afternoon. I have stated that I'm opposed to this ordinance. I understand there may be some amendments that may be offered in which case I may change my position with maybe a tweak to some of the wording. But my concern here is that the ordinance is not owner voluntary and we heard some statements here about personal property rights, and property in -- animals in Texas are personal property. We need to be very aware of that issue and if we alter a pet and that is a medical decision for the owner to make, a pet could die in this procedure. We could end up in a lawsuit, a lawsuit for discrimination because we need to all be very clear about where most of these unaltered pets come from and they come from poor neighborhoods. And so we could have unintended consequences for poor neighborhoods that don't affect the other neighborhoods. The other thing that we need to

understand about the spay and neuter issue that as that this is -- we're actually trying to swat a fly with a grenade. This is a -- 1% of our intake goes back unaltered, 200 animals a year. I think someone spoke earlier, I think Shannon spoke earlier to how we could better use our funds and time and resources of our animal center. And we do have a fabulous staff. Let's let them do their job and take the money we have that we already have in place to take animal control officers into the public, educate them about spay and neuter, make sure they understand we have free programs and let them do it voluntarily because it's their personal report and we need to let people make decisions about their own property. The government, the city, should not be doing that. My other concern about this proposed ordinance is that it is really a slippery slope to mandatory spay and neuter and I'm opposed for the reasons I already stated.

[4:52:27 PM]

I'm not the only one opposed. Every major welfare organization for animals in the country is opposed to mandatory spay and neuter. It does not work for the purposes intended and I think threaten our no-kill mandate in this city so I'm opposed to that. Let's put our animal control officers out in the field, go into these neighborhoods, educate them, you know, they have problems in many cases getting to the center in the first place to reclaim their animals. We have a very serious problem of educating our people to let them know they can come back and reclaim their animals. We don't want to punish them when they come to get their animals by saying, by the way, we're gonna alter your dog and if we say it's permissive, who gets to make the decision? The shelter gets to make the decision? Why would that be the case? The shelter should not get to make that decision if it's my pet. My pet gets out and hopefully it won't, I don't want to -- I don't want a government entity making a decision like that for my pet. I do agree that if we want to address the issue of homelessness for pets or the shelter issues for pets, that we need to do something about breed-specific legislation but we also need to look at public housing in this city and what we can do with what we do for incentives for housing and every time we have --

[ buzzer sounding ]

-- An incentive for housing we need to make sure renters can keep pets in their homes. If we did that we wouldn't need shelters. Thank you.

>> Mayor Adler: Thank you. Adette and Tara is on deck.

>> Thank you. I have a petition here from Liz that I'd -- from Liz

[indiscernible] That I'd like to hand to councilmember Houston. Is that okay? That's signatures of 110 people for this. My name is [indiscernible] And I run a small rescue here in the Austin area. I am for this because I see the repercussions of what happens when dogs are released back into our community not spay and neuter.

[4:54:32 PM]

They multiply and we're talking about a big snowball already that's just going to continue to get bigger and bigger we have to have the animals spayed and neutered and while we have them in our hands it's a good time to do it and we're asking for the discretion of our director and if we trust her judgment this is just giving her that. And I do trust her and I love the outreach programs she's talking about into our community. I think those are a part of the puzzle but this is a really big part of the puzzle. I see the horrors that these animals who are dumped go through. I see the litters of puppies running down the road, dead puppies on the road, I see every single thing you don't want to see because people are dumping dogs when our shelter has to close intake and it's going to continue to have to close intake until we get our numbers down. We're adding to the pet overpopulation problem. It wasn't 200 something animals returned intact. This year alone it's been 592 that's a big expensive that's a big

number. If we look at the numbers that were given by us on the survey, the only -- only 20% were reclaimed from animals that were brought into the animals as strays. So I don't think we're looking at alienating our community or causing a problem, a legal problem. I think these animals, they are dependent on us and we need to make the responsible decision. Thank you.

>> Mayor Adler: Thank you. Temporary Stermer and down Goss is on deck.

>> Can I hand a petition and some fliers?

>> Mayor Adler: You should give it to the clerk. Thank you.

>> Good afternoon. My name is Tara

[indiscernible]. I live on the east side of Austin. I stand before you today to ask you to pass spay and nature on first impoundment. What I just handed up there was 900 signatures.

[4:56:36 PM]

It's a petition that we had put online requesting support for spay and nature on first impoundment. Support tears love Austin's no-kill status and hoping you will make the decision to help the overpopulation problem which is causing our shelter to limit admissions. As you should have already heard we're not asking for mandatory spay and nature. Those who are opposed are claiming we were. We know there are responsible owners. But there are also those who are not. So because of that we do oppose amendment number 2. For this reason we are simply asking council to give animal Austin, Austin animal services director permission to spay and nature on first impoundment and use her professional judgment to exempt frail, elderly and sick pets. We heard animal services management is concerned that spay and nature on first impoundment were decreased [indiscernible] Percentages but we also learned that reclaim is only 20%. It was also suggested that spay and nature would take up more kennels in the shelter. We standard multiple veterinarians and [indiscernible] They all spay and nature and send out that same day so no extra cage space is required. According to animal services, this year 367 intact mails, 225 intact female dogs were returned to owners. That's 592 intact dogs we returned back to the streets. That's a potential in one year's time for 7,000 more dogs. That's almost half our yearly intake. 900 citizens have expressed concern that our shelter is so overpopulated it needs to be closing its doors to people that find healthy stray animals and are trying to do the right thing by that animal. 68 new tickets for loose dogs were called into Austin 311 in just the month of October. 107 new animal bite records were created in October. History shows this number will increase with the animal population increase.

[4:58:37 PM]

Our kids and residents will be exposed to potential pack attacks or house pets could be exposed to more disease. Also in front of you see photos taken from the east side of Austin, a pack of four dogs that roams Austin's colonies. The residents were told to call the sherry. It will take three days for a shelter to get there. The sheriff then told them to shoot the dogs if they went to the livestock. Closing the shelter dogs will certainly kids dogs inhumanely outside our shelter whether by cars, guns, disease or star vacation. 900 citizens wanted you to know that they care about keeping our city no-kill but this does not mean our shelter should turn their heads, lock the doors and let animals die on the streets. This means helping lower the population by starting a sensible solution of spay and nature on first impoundment. Austin can do this.

[ Buzzer sounding ] Thank you.

>> Mayor Adler: Thank you.

>> Pool: Mayor, I

>> Mayor, I had a quick question. Thanks. I don't see the source of the statistics that you have in your handout. Could you --

>> Yes, ma'am. Austin 311, on their calls, their regular calls, I personally took the time to count all of the loose dog calls, were 678. New calls, just in October, and all of the data that's in your handouts came directly from the animal services data. If you look and type in and if I recall it, it says -- you can filter it out and say intact males returned to owner, dogs, intact female dogs, returned to owner. I counted every single one of them.

>> Kitchen: And do you know how many of those are repeat offenders?

>> Multiple. I don't have an exact number. No, I actually wanted to take time to talk about --

>> So the 678 new tickets could be --

>> No, so I actually looked at the numbers. I'm sorry.

[5:00:37 PM]

I should have added that. I do thank you. I actually looked at their I.D.S just so you know, I have looked at the I.D.S. That's what I did to make sure I have the numbers. The animal I.D.S, the Austin animal center gives out those I.D.S on the animal services as well.

>> And they're -- so the same dog has the same id number?

>> Yes. They shouldn't be giving the same dog two different numbers. I don't think they do. Do they?

>> Okay. Thank you.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: Before you go, thank you for being here. You passed a petition. I kind of browsed through it. I found people from lake tahoe, California, Fort Collins, Colorado, morrisville, Pennsylvania -- do you have any idea of the percentage --

>> Exactly. There are 56 people who are not in Texas.

>> Zimmerman: Only 56 out of 900.

>> 56 out of 900.

>> Zimmerman: Okay. Thanks.

>> Mayor Adler: Delon Goss. Wanting to speak? Is Rochelle Vickery here? And Lynn Whittington, are you donating your time in Chris Barnes, are you donating your time? Okay. You have 12 minutes.

>> Good evening, Mr. Mayor, city council. Before I start, I have a letter from over -- certifying from Heidi gearbrooke that I turned in over 6,500 pen on paper signatures gathered in mostly east Austin. I also have another 5,000 pen on paper signatures that I gathered personally in east Austin, supporting a spay/neuter ordinance.

[5:02:37 PM]

>> Mayor Adler: You can give any of that to the clerk. Thank you.

>> A number of years ago, the Austin neighborhoods council passed a resolution asking the city of Austin to draft, pass an ordinance which would require owners of a cat or dog over the age of six months, with some come sense exceptions to spay and neuter their pets or register their pet as intact. It's not mandatory as you hear that term tossed around a lot. The reason we feel like those people who own the unfixed animals should pay a fee are because they're the ones creating a problem for the animal shelter. Last year, the ANC renewed its support for that resolution. The Texas -- let's see -- the ANC was joined with letters of support from the Austin humane society, animal trustees of Austin, emancipet, the federation of animal care societies. The south Austin Democrats, tejano Democrats, the citizen led Austin safety partnership, a number of neighborhood associations, and a number of local animal rescue groups. A petition in support of that ordinance gathered over 10,000 signatures. That's the bundle that I

just passed up. Unfortunately, the previous mayor and city council failed to listen. Instead, they did what was politically expedient instead of what was the right thing to do. That's what brings us to where we are today. At the very least, the very least, the city needs to implement spay/neuter on first impound and create more spay/neuter initiatives. There are a number of reasons for asking for this ordinance. Over time, those reasons have become more clear, and everything we predicted would happen has happened. The cost to maintain the current no-kill policy have increased much more than predicted. Originally, the ANC was told that putting a no-kill policy in place would take a one-time shelter budget increase of \$650,000. That cost has increased 1,000% and it's still climbing.

[5:04:39 PM]

The cost of operating our city's shelter has increased from \$5,200 a year to over \$13 million a year, and it's still going up. Last year our shelter -- or this year our shelter has been closed for -- is it seven weeks? Almost two full months out of the last eleven months. We predicted our shelter would become overcrowded. So far, by allowing Austin pets alive to use the old city shelter to house overflow from the new city shelter, we have more than doubled kennel space. It hasn't been nearly enough. Under the last city council, we voted to build an additional 80 kennels. The day that vote was taken, they were 163 kennels short. The projected cost of those new kennels is over six million dollars. That's just to build them, not to staff them. Judging by what we've seen with area treatment plant number 4 in the waller creek tunnel project, that cost of \$6 million is probably going to increase. That's above and beyond the current shelter budget which has increased 130% in, what is it, five short years of no kill? We have had over 40% increase in dog bites reported over the last five years. That's far and above the 15% increase in Austin's population growth. You should know public safety has taken a back seat to maintaining a less than 10% euthanasia rate at our shelter. Six out of ten council districts -- and this is statistics I got from the mayor's office -- loose dog complaints were in the top seven complaints to our 311 call center in six out of the ten council districts. Humane treatment of a very significant number of Austin's unwanted and stray pets has also taken a back seat. The current version of no-kill is great for those animals who are allowed admittance into the club but it's an inhumane disaster for the many others in Austin. It's easier to surrender custody of a child under two months old than it is to surrender custody of an unwanted pet.

[5:06:41 PM]

The reason the state passed that law is they realized very bad things can happen to a toddler. Can you imagine what happens to an unwanted cat or dog when you tell the owner that you've got to make an appointment and it may be four to six weeks before you can surrender it? It's not much of a stretch of an imagination to figure out what happens there. Some people just can't make that bad -- that leap that if bad things can happen to unwanted children, then really bad things can happen to unwanted cats and dogs. I can't tell you how many kittens and puppies I've pulled out of dumpsters, and they didn't climb in those dumpsters by themselves. These impediments to owner surrenders have led to pets being abandoned on the streets. It's led to animals being dumped out in the county. It's led to people taking the Austin/Travis county pets to high-kill shelters outside of Austin. The shelter directors from Bastrop, Lockhart, and San Marcos have all complained about shelter animals from Travis county that are being taken there because they can't surrender them here. The current version of no kill has become a code word for euthanasia by protection. Euthanasia by malnutrition, euthanasia by disease, euthanasia by parasites, euthanasia by predators, or euthanasia by letting another shelter do our dirty work for us. I really don't understand why so many people are so proud of no-kill. Yeah. We're not killing animals at the shelter, we're leaving them on the streets to die. That's just incredibly inhumane. Over 62 towns,

cities, and even states have put laws in place which mirror what the Austin neighborhood council has asked the city to draft and pass five years ago. Considering what's happened, don't you think it's time for the current city council to listen to the voices of reason and the voices of the vast majority of the people here in Austin, not just the animal community which seems to be under the spell of a consult. This spay/neuter on first impound, it's only a tiny step. It's a teeny, tiny step, but at least it's a step in the right direction.

[5:08:46 PM]

Since I've got some time left, I want to bring up something about this brief specific legislation, the opposition to it. I talked to one property owner, and he said, well, if they do brief specific legislation, and I can't tell people they can't bring certain dogs into my building, I have a simple solution for that. I'll just ban dogs. Is that a good solution? You tell me. Because if you do -- if you don't allow people to choose what animals can live on their property, they'll just ban dogs, which leads to more animals being left at the shelter. I also want to bring up a story. There's a lady who lives in my neighborhood. Several of you know her. I'm not going to use her name here. Several years ago, a little boy ran up to her house and said, nanny, nanny, the dogs have my sister. She went outside, she found three large dogs dragging a two-year-old girl down the street. She did exactly what you would expect this person to do. She kicked and beat at the dogs until they let go of the little girl. Then she threw her body over the little girl. She woke up seven days later from a coma in intensive care at Brackenridge. She had her face ripped off of her skull. She had a broken jaw. She lost half her teeth. She had a broken arm, several broken ribs. That's what happens when you close the shelter. This did not -- let me be clear. This did not happen under no-kill, but any time you close a shelter to intake, you run a risk of that happening. It's real. It does happen. People talk about mandatory spay/neuter. Well, one of the things I'm concerned about is mandatory taxes that I have to pay to fund no-kill because we don't have some could of spay/neuter ordinance in place. And I've heard a lot of talk about criminalizing pet ownership or how this puts restrictions or how it's going to hurt low income families, it'll put a financial burden on them.

[5:10:46 PM]

Pet ownership is already criminalized, if you don't provide food, water, rabies shot and medical care, you can be cited. There's state laws put in place to do that. It's already criminalized. I mean owning grass in my front yard is criminalized. If I don't mow it, I get a attributing ticket from the city. If I park in the wrong place, I get a ticket from the city. That's about all I can speak in front of a crowd this large. Thank y'all for letting me rant and rave and get this out of my system. I'm very upset with no-kill. Just to let you know, I dedicate over 20% of my income to rescuing animals. I don't make money off of animals. I take care of a lot of animals in my low income neighborhood, and I see the loose dogs, and I said the loose cats, and I see what happens in east Austin. So, yeah, no-kill is great for those that make it into the Chevrolet unfortunately, it's an exclusive club and not everybody makes it in because there's just too many of them. It's simple math. I don't understand why this is so difficult for people. Thank you.

>> Mayor Adler: Thank you.

[Applause] Jennifer Carroll. And Ellen Jefferson is on deck.

>> Thank you. My name is Jennifer Carroll. I run a non-profit dog rescue in blanco county. We actually recently just moved to blanco county from Austin to do the rescue, and we were surprised to find out that there's nothing out there, just outside of Austin. A lot of communities have no 311, there's no animal control, there's no shelter, there's no one to call. So what we've done is we work with police and the community and try to help as many animals as we can. Something I want to point out, I think we have a unique perspective, being just outside of Travis. We have a number of dogs that we pick up, that

have been dumped. They're not from our county. The number with microchips from Travis county, a number that were chained up that we unchained from Travis county.

[5:12:47 PM]

We also have a great number of adopters in Travis county that call us in blanco when they found a dog, mama kittens, a box of kittens, and they called 311 in Austin, and they can't get animal control to come for a few days, or in some cases, they'll call and make an appointment, and it's a few weeks out. They have children, they have schedules. They can't -- they can't wait three weeks, and they don't have space to keep these animals. Couple cases, they actually drove to the shelter and intake was closed for medium and large size dogs and healthy cats and kittens, which is the majority of animals that need shelter. So that leaves them no option to do the right thing. And I think the really important observation here is that most people want to do the right thing. But when they don't have an option to get help, when they can't get to the shelter that's supposed to help these animals and help them, they don't have an option, so they end up being chained backyards, dropped back off in a neighborhood, or a lot of time what I see, they drive a little farther out in the county, and drop them in the country, then we find it, sometimes alive, sometimes not. I think the only way that we're going to work our way out of this overpopulation problem is to first open intake. Always open intake. And that is really, really hard because we struggle with it, too. But if we don't get the animals into safety and we do find out where they're coming from, the community doesn't trust us, and we can't find the root cause. It's really important to see where they're coming from and go to those communities and fix those problems, and it meant did it puts a lot of strain on us today, but in a year, there will be fewer animals that have to come into intake. We also need a really robust community outreach in spay and neuter program. I feel like this is my opinion, but I think that we spend an awful lot of time debating no-kill when we could be acting in no birth, today. Today. It's not that hard.

[5:14:48 PM]

This summer in our little blanco county, we started a spay and neuter outreach program. It's completely funded by donations. We can't do it if we don't get donations. We do it for free. We pick up animals at 8:00 A.M., bring them to our low cost clinic, and drop them off at 2:00 P.M.

[Buzzer sounding] I heard some conversations about space. It takes no space. We pick them up, we drop them off, we give them a crate, we follow up. We've had zero incidents. Every animal we fix today is a hundred we won't bring into intake or continue euthanizing -- or consider euthanizing for space. So I support spay on first impound. Through.

>> Mayor Adler: Next speaker is Ellen Jefferson. Then pat [inaudible] Is next.

>> Hi. Thank you. I'm the executive director of Austin pets alive, and I'm here because I think it's -- I think that one of the previous speakers said something that really resonated with me, and that is that trying to swat a fly with a grenade, I think we're missing the mark completely. The quality of a solution is directly proportional to how well we have defined the problem, and I don't think we have defined the problem well enough to create a solution that changes the ordinance and potentially has unintended consequences for the shelter itself. We've talked a lot about loose animals. We've talked a lot about managed intake. We've talked a lot about cruelty to animals. None of those things are directly tied to what is being proposed as a solution today. I'm not saying that spaying and neutering more animals won't help prevent those things from happening, but we don't know they're a direct impact of spay and neutering these specific animals. However, if the shelter has to do this and there's unintended consequences, where owners are forced to spay and neuter their pets against their Wilkes it will, it decreases the trust people have in the shelter.

[5:16:48 PM]

People currently going to the shelter for those resources to provide better care for their pets may not be inclined to do that in the future. We provide rabies vaccine clinics, not we, Austin pets alive, but the city does. If people are afraid the pet is going to be confiscated at one of those, and spade and neutered or who knows what, they're not going to use those resources. I think it's important that we think about the recipient of whoever this is, and I don't know who -- I don't know that there's been enough data to even know who this affects, who the people are, and who the pets are. The other thing that I know it will affect is decreasing the return to owner rate. We already have a low return to owner rate. Not low nationally, but low compared to other live outcome options, and if we're providing a deterrent for people to not want to come pick up their pet, that is going to reduce the number of live outcomes we have at our shelter. We also know that spay/neuter does only take a day. However, most of the spay/neuter operators are backed up. So it can take weeks to get an animal in to surgery, which will increase the length of stay, which will increase the crowding of our shelter, which, in turn, leads to more animals being turned away because the shelter is full. Because I think that it's really important that we evaluate this more carefully before making a judgment. Another unintended consequence that I'm concerned about is I do trust this Dr. And I do think she'll make the right decision for the animal and for the people. But what about a future director, what if we have a future director who's militant one way or the other, this is so vague, apparently, legally, that they can do whatever they want. And I think that that's important to keep in mind. One safeguard that's in place, so if there is an animal that does cross the door of the shelter with the current code, and the shelter director wants to do something for that animal, they have safeguards.

[Buzzer sounding] I'll just finish briefly. They can do welfare checks on that animal. They can do cruelty investigations. So I don't -- I do think they have enough tools in their box to do what the intent of this ordinance change is.

[5:18:51 PM]

That's it.

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

>> Zimmerman: Dr. Jefferson? Thank you for being here. So you are signed up, I think it says here neutral, but you want me to vote against this, it sounds like.

>> I would -- I am for it if it's very clear that it is not forcing people to do what they don't want to do.

>> Zimmerman: But as we heard before it's not clear. I agree it's not clear. Yeah. Thank you.

>> Mayor Adler: Thank you. Jeanie Cruz. Oh, I'm sorry, next, Christine Hays? Pat. Yes, I'm sorry. And then --

>> I have three minutes?

>> Mayor Adler: Who do you have three minutes from?

>> You just called my name but I donated my name.

>> Mayor Adler: Got you. Okay. You're Jeanine Cruz. Got you.

>> Thank you. , Mayor and councilmembers. My name is Pat Bostrayas, and I am here to speak in favor of the proposed resolution as drafted. I hear there's -- there are three amendments, and I've looked at those amendments, amendment number two would be the one that would say that -- that the owner has the right to -- it negates what we're trying to do if the owner declines spay/neuter on first impoundment and that eliminates everything we're trying to do. So all of my comments are assuming that you do not accept amendment number two. Now, here's the really, really important thing.

Everything that I've heard up until now doesn't acknowledge that we already have current city code that

allows spay/neuter on second impoundment. Spay/neuter on second impoundment has been in place for ten years, and it's been working fine.

[5:20:55 PM]

Some directors have used it more than others. So all of the concerns that have been raised, how would this work on first impoundment, there's no problem because it's currently working on second impoundment, and it's been working pretty well, but not well enough that we don't have an intake crisis every summer, and we're trying to get it on first impoundment so we spay and neuter more animals, and we're already doing it. There's no legal issues, there's no problems doing it because we're already doing it on second. Now, David lundsted, the current chair of the animal advisory commission, was instrumental in changing it from third to second. When he changed it from third to second, there was no controversy. It didn't, you know, get a debate on two sides. At that time, in 2006, everybody thought spay/neuter was the best practice, and let's spay/neuter as many animals as possible while we have them. That is the most efficient way to reduce births is to spay/neuter them while we have them. For ten years, we've been doing this. It's been working fine. And shelter directors have exempted frail, elderly, and sick, just like we want them to continue to be allowed to do this. This is not mandatory spay/neuter. This is permissive spay/neuter, and it's permissive to allow the director to do it using her best professional judgment. Mandatory spay/neuter is where you require people in the community to spay and neuter their animals whether or not they've been running loose. We don't -- we're not proposing that at this time. If our shelter continues to be closed to intake for many years, we may come to that, but we're not proposing that we are proposing spaying and neutering animals that have been running loose. Yes, people have a property right to get their animal back intact, but if they have violated by allowing them to run loose, we have a right as a community to say, you have a right to get your animal back, but we're not giving them back intact.

[5:23:11 PM]

We are changing the fact that they can reproduce because they've been allowed to run loose, and they've been allowed to be out there reproducing, and we're changing that one fact. But you still get your animal back. You still get your property back. So we would like to see fewer intact animals running loose, and there's no more cost-effective way to do it than to allow spay/neuter, permissive spay/neuter on first impoundment. And as I said, we've already been doing it on second. You've heard shelter management speak to the fact that we do not have enough animal control officers. When people call 311 now, they're told it's going to take 72 hours for animal control to make it out there. If it takes 72 hours for them to get out there, many animals are not being -- many dogs running loose are not being impounded, so that makes it more important that we spay and neuter them when we have them, because, as I've said three times now, it's the most cost-effective thing we can do. It used to be that spaying and neutering every animal at the shelter was a no-brainer. When we first brought this up, David lundsted thought it was going to pass the animal advisory commission in February unanimously and we were just going to do it real quickly because, as he said, it's a no-brainer. It's the most efficient thing we can do. So why are we having to argue about this? Through the great work that emancipet has done, the city is already spaying and neutering the ones that are easy to fix, the ones people want to do voluntarily. What we're not doing is ones people want to use as breeding machines. When someone wants to breed their animal and sell literatures of puppies, they think they're going to make a hundred dollars per animal, they think that if their dog has ten puppies, they're going to make a thousand dollars. They quickly find out, they can't do that, and then they sell one or two or maybe three, and then they take the rest to the shelter, and that contributes to us having to close intake.

[5:25:18 PM]

We want you not to close intake. We want you to do the most cost-effective thing, spay and neuter pets when you have them. The criticism that I heard that we've been critical of staff -- I haven't heard anyone bringing criticisms of staff to this conversation. We are critical of a staff policy to close intake when we used to have an open intake shelter, and that has never been discussed in a commission meeting or in a council meeting, to go from open intake to closed intake. There are people who are very upset with that. We talk like we're upset about it, but it's because --

[buzzer sounding]

-- You made a big policy change that has impacted a lot of people, and when somebody has a loose animal in their neighborhood and they bring them to the shelter and the doors are closed, they get very upset.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Christine Hays? Ms. Hays, you have three minutes and you're our last speaker.

>> I'll put my little timer on. Thank you. My name is Christine Hardy Hays and I moved from Austin five and a half years ago to start a dog refuge outside of Bastrop. And so, basically, Austin wants to stay no-kill. Unfortunately, there are not enough adoptable homes to adopt our way to stay no-kill, and, thus, we have had to continually close intake or have appointments. You know, it's no longer an open intake facility. So the answer and the real solution is spaying and neutering. And that's why I'm supporting that now the director have the right to spay animals on the first impound into the shelter. Medium to large dogs as well as cats and kittens, as a population, are outgrowing our human population growth. We have a crisis model right now, where AAC has to close its doors and manage intake to keep euthanasia rates low. It's about being proactive and not reactive.

[5:27:21 PM]

That is not really no-kill. That's not maintaining no-kill in an open intake facility. And also, 30% of all animals that come into the shelter are unaltered. So -- and also, from Austin Pets Alive, she was mentioning that will decrease live outcomes, but how about all the offspring of all the ones that go back out unaltered? Those are the ones I worry about because they end up in the shelter. So it's cheaper to spay and neuter on first intake, and force only releasing and returning altered animals into the community than to build more shelter space. Also, safety is a huge issue. We've just seen this happen in Dallas, where they have stray animals running everywhere, which is what is happening out in your rural -- you know, outlying areas. I work a lot between Bastrop County and Travis County. I go out and get animals, help get them fixed. You see hundreds of dogs just running the streets. And so what you're going to find is that at some point you're going to have an incident where somebody is attacked or injured, then it's going to happen where we have to go figure out really how many stray animals are there out there, and I will tell you that all the strays out in those areas, it's about 100% that are unaltered. So safety becomes an issue because statistically, behavior issues and bite cases happen with stray animals because they're the ones that are overpopulating, and also one of my big concerns and what I deal with on a daily basis is the pressure on the rural shelters. That's been mentioned, too, because when animals are not taken in, they have to go somewhere. Just last week, I picked up a dog that was tied up for two years. He was on the border. He could have gone to -- they were going to bring him to Austin Animal Center, but it was going to be like three weeks before they could get in because he's 45 pounds. He had already had one litter of puppies, had run out, gotten loose again and gotten the neighbor dog pregnant. So I took both of them, got them if I could. They didn't want him

back. We didn't know what they would do with him but it wasn't going to be good so I ended upbringing him to my house.

[5:29:22 PM]

These are the type of cases I take on because of Austin as well.

[Buzzer sounding]

>> Thank you.

>> Mayor Adler: Thank you. Those are all the speakers that we have. We're now back up to the dais. Ms. Houston?

>> Houston: Thank you, mayor and I want to thank everybody for coming today. As we all know, Austin is not only weird, but it loves its pets, and so this shows how much people care about not only their own personal pets, but those that are running loose in the community. I've got some comments just to kind of set the backdrop for this. First of all, I want to thank all the people who have worked with my office over the last year as a result of a referral from the mayor. And we've had open conversations about this topic. The conversations have included animal center staff, animal advisory commission members, advocates, citizens, and council colleagues. As it has been said, spay and neuter on second impoundment permissive has been in effect since the code was changed in 2006. That change was made long before no-kill policy was implemented in 2011 by council action. I want to be clear. This amendment is not about any change to the no-kill status of Austin. The referral, however, allowed a chance for everybody to review the spay/neuter policy over the past ten years, to evaluate its effectiveness based upon the data that has been provided by the animal shelter, and to suggest changes in an effort to reduce the stray population and potential admissions to the center. Has the current spay/neuter policy been effective in reducing the number of stray intake animals giving birth? We don't really know the answer to that. In your backup, you will see that 311 data shows that Austin has a large number of stray animals, and the numbers of high in district 2, 3, and 1.

[5:31:40 PM]

If you could put this up on the overhead. Thank you. This is the table that we developed from statistics from the animal shelter from August 1st, 2015, through August 31st, 2016. The first column is the one about Austin resource recovery and the dead animal collections by district. The second column is the loose dog -- loose dog calls that 311 receives. And the third column is the injured/sick animals that have been identified in those three districts. So the next -- the data shows that this problem is particularly impactful in areas of our community that are less prosperous. To me, it is yet another concrete example of the tale of two cities. If they're able to spay/neuter their animals and keep them secure, in parts of our town, the neighborhoods that I know, loose animals mate with impunity producing litters as often as litters as often as biologically possible. For district 7, 8, and 9, they were random, in sequential order, it shows the number of calls to 311 regarding dead animal collection, loose dogs, and injured and sick animals calls. Districts 1, 2, and 3 double the calls that we are getting from these more prosperous areas. Those are high, but not as high as you will see in districts 1, 2, and 3.

[5:33:41 PM]

We've heard testimony from an owner who adopted a female dog whose life was in jeopardy prior to being adopted because of the number of litters she had had. Now, in spite of the city's robust efforts to expand kennel space, and that would be constructed at the Levander loop animal center, we cannot work our way out of this conundrum. We must curb the potential number of stray animals and eventual

admittance to the animal center. Efforts to spay/neuter are ongoing. Has the impact of education been enough to reduce the incidence of stray animals? It doesn't appear that it has been able to stem the tide, based upon the number of intact stray animals roaming our streets. Many groups, emancipet, partner rescue groups, and individuals work very hard to educate our citizens about spay/neuter. These groups and their members are to be commended. They are in our neighborhoods and part of the community outreach on which we rely. However, their efforts have not been enough. And someone said that this was like using a fly swatter -- well, maybe that was not the analogy, but it was using a fly swatter to hit something very large. We have to start somewhere. We hear that in many other things that are going on in this town. We've got to make some tiny steps, and this is one of those tiny steps that will reduce the number of dogs in our community that are creating litter after litter after litter. Let me put this code amendment in perspective. This is not an instant fix for the problems of loose/stray animals in all parts of our city. It is an effective option, however, that, in time, can affect the number of loose stray dogs who give birth, resulting in more loose/stray dogs.

[5:35:48 PM]

The six-month study reported by the animal staff at the health and human service committee included a lot of data. The most important number to me in this city was the 209 number that represents the number of animals returned to their owner intact after first impoundment. And you have that backup in your handouts. Given that the study was six months long, twice that number could be anticipated in a year. The number is consistent with approximately 500 animals, 519 dogs and 24 cats, returned to owners intact according to the 2015 data. There is funding in some accounts to budget and pay for additional services for these animals, and contracting with not only emancipet but even for primary -- for public -- private veterinarians to be able to accommodate more ability to spay and neuter males and females. This today change is a small step to try to reduce the loose/stray animals that roam parts of our city giving birth to more analysis. It continues to allow the center staff to make the same decisions they make currently, decisions based on the best interest of the animals, evaluations done by animal professionals, and I will ask your support on just this issue, to change that code from second impoundment to first impoundment.

>> Mayor Adler: There's been a motion by Ms. Houston. Is there a second to this motion? Mr. Casar seconds the motion. Council, it is 5:36. At this point, we would ordinarily break for dinner, as well as for music and proclamations. I think there's an amendment to come from Ms. Garza. We want to stop at this point and come back. I think that's our practice. So we would -- we would stop at this point.

[5:37:50 PM]

How quickly do you want to come back? You want to come back at 6:45? 6:30? How quickly do you want to come back? After this item, there are four other items that look to be relatively short on the agenda.

>> 6:45?

>> Mayor Adler: 6:45?

>> Houston: How many proclamations do we have today?

>> Mayor Adler: Seven, I think.

>> Houston: Seven?

>> Mayor Adler: I think we could do 6:45 if you all wanted to come back then. Ms. Garza?

>> Garza: I don't know if -- I don't know if there will be a lot of discussion on my amendments, and I would suggest we start, and if it goes longer than five minutes, then we stop.

>> Mayor Adler: Okay.

>> Garza: But I don't think there will be a lot.

>> Mayor Adler: Let's see if we can do that. We have a lot of people here.

>> Houston: Well, it's already past 5:30 now and that's live music.

>> Mayor Adler: Let's check and see real fast. Because we can let everybody go. Is there going to be debate about the amendments? Are you going to work against the amendments?

>> Houston: Well, I have some concerns about some of them that -- but I'd like for councilmember Garza to go ahead and lay those out, then I'll express my concerns.

>> Mayor Adler: Yeah, it's going to take more than five minutes. Let's come back. We'll come back at 6:45. We're going to be in recess till then. I apologize for this. Let's gear up then for the 5:30 calls on our agenda. You guys are in retreat. 5:30, we go to music. We stand resisted.

[5:39:52 PM]

Stand recessed. We stand recessed. We stand recessed  
[council in recess.]

[5:46:09 PM]

>> Mayor Adler: You guys ready? You know, I don't know -- I don't know how much of the city council meeting you all have been able to see. Coming in now for problem for proclamations and the like. One of the neatest things we do as the city council in the live music capital of the world is that we stop our city council meetings pretty religiously at 5:30 in order to celebrate, celebrate live music, and it has -- if the group back there could hold off just a little bit -- it has become my -- my most favorite part of city council meetings. And you're about to see -- you're about to see why. Joining us today is Ruben Ramos.  
[Cheers and applause]

>> Mayor Adler: Elgoto Negro. The band today features Ruben Ramos on vocals, Rick Fuentes on accordion, Joe Ramos on guitar. Ruben Ramos sits at the helm of a family with a century-long musical legacy. This legacy, el Garo, is set with traditional Mexican roots, infused with the big band sound of the 1940s, heavily influenced by blues and rock, and is now perched at the pinnacle of tejano. In 2009, Ruben and the Mexican revolution won their first grammy for best tejano album,

[5:48:12 PM]

[speaking in Spanish], most recently in October of 2016, Ruben won the Trevino cyber humanitarian award and the cyber male artist award. It is an incredible thrill. Please join me in welcoming Ruben Ramos.

>> Thank you, sir.

[Applause]

>> Thank you. Testing, one, two. Test. Testing, one, two. Thank you so much. Honorable mayor Steve Adler, thank you for this proclamation. I'm honored [inaudible] And I'm humbled by this proclamation. I want to thank you, and I want to share this with my band, the Mexican revolution, my brothers, past brothers, and my sister. It's one of the -- one of the links to the -- my uncle's, you know, to carry the legacy on. And of course I want to share it with my sons Ruben, mark, my daughters, Sheila and Elaine, my wife Tina. This is a big day for us. I want to thank you. And we're going to do an intertwine of music right here. I think they're getting the mics ready. I don't know if all of y'all can hear me. Testing, one, two. Testing, one, two, one, two, one, two, one, two. Testing, the one, two. Testing, one, two. Does that work?

>> [Inaudible].

[5:50:19 PM]

>> Testing, one, two, one, two.

[Speaking Spanish] Testing, one, two, one, two, one, two. Go ahead.

[♪ Music playing ♪]

>> Please release me, let me go. For I don't love you anymore. To live alive would be a sin. Release me and let me love again.

[Singing in Spanish.]

[5:53:03 PM]

>> You're just too good to be true. Can't take my eyes off you. As long as love has arrived and I'm so glad I'm alive, you're just too good to be true, can't take my eyes off of you.

[Singing in Spanish.]

[Applause]

>> Thank you, sir.

[5:55:09 PM]

>> Mayor Adler: So, if -- Mr. Ramos, if somebody watching here today on TV wanted to be able to find -- find you, do you have a website?

>> I do. Rubenramos.com.

>> Mayor Adler: And if they want to get some of your music, what would be the best way for them to do that?

>> On our website you can go to

[inaudible]. You can go to -- what else? iTunes. Right?

>> Mayor Adler: That'll work. People can find that.

>> [Inaudible]

>> Mayor Adler: All right. And if folks wanted to come hear you play, any gigs coming up here in the area?

>> I want to tell you about -- I'm going to celebrate 50 years -- it's really 53, but 50 years sounds better, the figure 50.

[Laughter]

>> I want to celebrate 50 years in the music and I'm going to do a cruise on February the 20th, and we'd love to have y'all.

>> Mayor Adler: Great.

>> Whoever can come and join us. It's going to be a lot of fun. And it's going to be a five-day cruise, just up to Cozumel, Pervaso, February 20th through the 24th.

>> Mayor Adler: Okay. Great. Great. So I get to read a proclamation. Be it known that whereas the city of Austin, Texas, is blessed with many creative musicians whose talents extend to virtually every musical genre, and whereas our music scene thrives because Austin audiences support good music produced by legends, and our local favorites and newcomers alike, and whereas we are pleased to showcase and support our local artists, now, therefore, I, Steve Adler, mayor of the live music capital, do hereby proclaim November 3rd of the year 2016 as Ruben Ramos day.

[5:57:33 PM]

Congratulations.

[Applause] >> >>

>> Mayor Adler: Jim Duncan has a poster from 40 years ago from the armadillo from Ruben Ramos.

[6:00:43 PM]

>> Mayor Adler: We have a proclamation that's going to be accepted by Niyanta Spelman. This is a proclamation. Whereas Rain Forest Partnership is an international non-profit founded and based in Austin, Texas. Its mission is to protect and regenerate tropical rain forests by working with the people of the forest to develop sustainable livelihoods that empower and respect both people and nature. And whereas Rain Forest Partnership was in the 21st session of the conference of the parties to the United Nations Framework Convention on Climate Change held in 2015. Where the Paris Agreement was adopted on December 12th of that year. And whereas Austin's Steve Adler, mayor, reinforced the city of Austin's commitment to address climate change by signing the Compact of Mayors, the world's largest coalition of city leaders addressing climate change and efforts to reduce greenhouse gas emissions in cities around the world and incorporates a standard method of reporting and measuring emission reductions. And whereas Rain Forest Partnership will hold its annual celebration event on November 3rd, 2016, that's tonight by the way, at which it will spotlight the work and achievements made possible through the joined efforts and support of their network of rain forest partners. It will also celebrate the unprecedented global resolve shown by the 197 countries that make up the conference of parties in tackling climate change.

[6:02:45 PM]

Now therefore I, Steve Adler, mayor of the city of Austin, Texas, do hereby proclaim November 3rd through the 10th of the year 2016 as Rain Forest Protection Week. Niyanta, do you want to say something?

[Applause].

>> Thank you so much, Mayor Adler. I'm here with board founding and current board chair Hazel Barber and Bob Warnecky as well. This is such an unprecedented day for us as we do the count down to something that is so historic, even as it doesn't almost touch us, the adoption by 195 countries of the Paris Agreement and then the resolve of the U.S. and everybody else to actually ratify that and bring that into force, it's the first time we as a planet have said we want to do something. And I am so proud to be based here -- to have Rain Forest Partnership based here in Austin, Texas and to be here with our mayor, who is also in Paris with us during the Paris COP 21. It is truly an honor and I want to thank everyone who is here as well and the city of Austin.

[Applause].

>> This is such a wonderful thing and all the projects that you do associated with that. One of the projects, at one point you could walk into my office and with a geo map device you could listen to Barton Springs.

>> So can I tell you a secret? You still can. And you can start right here in the plaza and --

>> Mayor Adler: It's still going?

>> Yes. The event is today at the Gilfulen House, they're at Zilker Park, at Mueller, and also to places in downtown Austin.

[6:04:50 PM]

And we've had them for a few years and we keep adding them.

>> Mayor Adler: Very cool. Congratulations. Let's take a picture.

>> Mayor Adler: We have a proclamation that will be accepted by Joe pantalion, who is the director of our watershed protection department. And also have someone here in the national weather service. Thank you for joining us.

Proclamation: Be it known that whereas located in the heart of flash flood alley, the city of Austin's number one hazard is flash flooding. And whereas 75% of the flash flood deaths in Texas occur when people are in their vehicles, Austin, atx floods.com website keeps people informed about the location and status of flooded roads in our community.

[6:07:01 PM]

And whereas the city of Austin's watershed protection department works to promote a weather ready nation by taking an active role in promoting flash flood safety and floodplain management in our community. And passionately promotes the life-saving, save yourself, turn around, don't drown message. And whereas the national weather service has officially recognized the city of Austin as a weather ready nation ambassador. Now therefore I, Steve Adler, mayor of the city of Austin, Texas, do here by proclaim November 3rd of the year 2016 as weather ready nation ambassador recognition day. Congratulations. And Joe, do you want to say something?

[Applause].

>> Mayor, before I speak I would like to ask Joe aryanio with the national weather service to say a few words.

>> Good afternoon. Stint watershed protection has been an exemplary weather ready nation ambassador, setting the standard for flood safety on outreach in our area. The agency hosts a flood awareness website, run social media campaigns with psa videos and highlights flooded roads and streets, including live video monitoring of low water crossings. The city of Austin watershed protection also hosted a turn around, don't drown campaign featuring a poster contest for area children. Thank you city of Austin watershed protection department for helping to build a weather ready nation. Thank you. [Applause].

>> Mayor Adler: Tell everybody what's on the screen.

>> Sure, we will have the watershed division manager to come up and talk about some of the elements of our storm water program, but first I wanted to thank not only the mayor, but especially the national weather service for this recognition.

[6:09:11 PM]

The mission of the watershed protection department is to reduce the impact of flooding, erosion and water quality pollution on our community to protect lives, property and the environment. Located in the heart of flash flood alley, flooding is Austin's number one national hazard. As a weather ready nation ambassador, we are dedicated to helping our community to protect lives, property and environment and to be ready, responsive and resilient to the impacts of flash flooding. We work closely with our terrific partner, the national weather service, to keep the public safe and informed about the dangers of flash flooding. Our other key partners including Austin fire, austin-travis county emergency management services, homeland security and emergency management, Austin's communications and public information office, and the Austin police department, all work to ensure the highest level of safety and protection for Austin residents in flash flood alley. And on a regional basis, we also partner with the national weather service, the Texas floodplain management association, the U.S. Geological survey, the lower Colorado river authority, and our local TV and radio news agencies and weather forecasters as a way to strengthen our community awareness about the dangers of flooding in central Texas. And it's really no coincidence that it rained today to help us with this event. So with that I would like to

introduce one of the key members of our staff that works tirelessly. He and his staff are on duty 24/7 to operate our flood early warning system and respond to floods no matter of the day or night, any day of the unique and that is Kevin Shuck, our floodplain manager.

[Applause].

>> Thank you, Joe and thanks, Mr. Mayor and to the national weather service. We're really proud of this recognition. It's something that we Steve very hard to do in working with the partners that Joe mentioned to provide flood warning services to the city of Austin.

[6:11:17 PM]

Some of the key elements of this recognition for us, you can see one of them on the screen, is the atx floods and the red dots indicating road closures. It doesn't because they've been red for awhile, but as Joe mentioned it just rained and there are roads that are closed. So please be careful on the way home today and roads that are closed. In addition, we do a poster contest and we prepare a calendar and so we have kids, elementary age kids that prepare posters and the local media help us to judge the poster contest and then the winners become part of the calendar for the year. So it's almost the end of 2016, but we'll have another calendar in 2017. Take a look out for those because there are some great posters for the kids that are all showing our slogan "Save yourself, turn around, don't drown." In addition to that we do a lot of outreach in the community during the year. It's a constant process for us and it's a way of reaching both neighborhood associations, elementary schools, science groups and a lot of other kids in a lot of other ages to talk about flood safety within the city of Austin. It's something that we need to continue to talk about and continue to educate people about in order to protect our residents. So thanks again for the recognition.

[Applause].

[6:14:32 PM]

>> Gallo: Thank you so much. I'm Sheri Gallo, councilmember representing district 10. It is such an honor for me tonight to be here with representatives of the amazing Wong family. They have been such an important part of our community. They also have one of their clinics that is located in district 10 on Jollyville Road. And as a supporter of both the constituents and the businesses that operate in district 10, I am so proud to serve you and be able to recognize you this evening. I have a proclamation that I would like to read. Be it known that whereas Dr. Mitchell Wong and his son Dr. Shannon Wong of Austin wanted to expand their ability to positively affect people within the Austin community and whereas the University of Texas Dell Medical School did not have a plan to incorporate ophthalmology in the school's first five-year plan and whereas the Wong family of Austin has pledged to donate more than \$20 million to establish an institute at the University of Texas Dell Medical School that will train future ophthalmologists as well as provide medical and surgical eye care. Now therefore I, Steve Adler, the Mayor of the City of Austin, Texas, does hereby proclaim November 3rd, 2016 as Mitchell and Shannon Wong Eye Institute Day. Congratulations.

[Applause].

>> Thank you very much, Councilmember Gallo. Thank you very much, Mr. Mayor. It's our privilege. I've been practicing in Austin almost 50 years, and an opportunity rarely comes that provides so much potential by establishing the eye institute we'll be able to help the citizens of Austin for years to come, we'll be protecting vision as we always have, but we'll also be producing visionaries in the future because we'll be training other ophthalmologists.

[6:16:42 PM]

So I thank you for this opportunity. And it's always a pleasure to serve you, the people of Austin.

[Applause].

>> Thank you for the I appreciate it very much. It's the university of Texas statement is what starts here changes the world, and that's what we're trying to do. Thank you.

[Applause].

>> Gallo: And behind us we have part of the wonderful community that's come here to help celebrate and support this wonderful endeavor and this amazing family.

[Applause].

[6:20:22 PM]

>> Mayor Adler: All right. We have another proclamation.

The proclamation: Be it known that whereas the Austin opera has provided 30 years of captivating musical experiences and educational opportunities to our diverse central Texas community and whereas Austin opera brings to life a vibrant, multidimensional, artistic vision to embrace and introduce new American works, to spotlight both debut and named artists, and maintain the highest standard of quality for the enjoy. And enlightenment of all Austin sentences. And whereas Austin opera exemplifies institutional excellence in its adherence to a mission to provide world class opera to its local community and to engage and cultivate the next generation of opera and fine art lovers in ways that make it intellectually and financially accessible to the most diverse audience possible. Now therefore I, Steve Adler, mayor of the city of Austin, Texas, do here by proclaim November 3rd of the year 2016 as Austin opera day. Congratulations.

[Applause]. Do you want to say something?

>> Yes, I would to just say a few words. Just in case there's anybody in the audience that didn't know that Austin had an opera. We perform at the long center. We have Richard Wagner's flying dutchman opening night November 12th. And if any of you want to either attend that or daughter of the regiment of madam butterfly later in the season, you call me personally and I will make sure you get to so it.

[6:22:31 PM]

Did you want to say something?

-- While I'm at it, of course I would like to extend the same invitation to our mayor.

[Applause].

>> Mayor Adler: So this is Elisa walls. Chairman of the board. And --

>> Just a volunteer.

>> Mayor Adler: And a foundational member for a long time. Let's take a picture.

>> Mayor Adler:

Proclamation: Be it known that whereas the city of Austin has vital interest in preventing and educating and improving the lives of those living with type I and type II diabetes and can be managed by diet and exercise. That's type I. While type two can be helped through lifestyle interventions.

[6:24:31 PM]

And disparities related to diabetes is a growing problem in Austin. It's estimated that one out of 13 type two -- adults has type II diabetes in the Austin Travis county area and whereas diabetes education access to health care, healthy foods and safe places for physical activity for all communities are vital to preventing complications from diabetes. And whereas the central Texas diabetes coalition mobilizes

community partners to increase access to and utilization of diabetes self-management and prevention resources. Now therefore I, Steve Adler, mayor of the city of Austin, Texas, do here by proclaim November of 2016 as national diabetes month. And here to accept this application is Dr. Wong, our medical director. Thank you, sir.

[Applause].

>> Thank you,.

>> Mayor Adler:.. And on behalf of the austin-travis county health and human services department, I'm really pleased to accept this proclamation for national diabetes month in Austin. I want to recognize our community partners who are out here today and the valuable contributions they're making in terms of diabetes prevention and control. So standing here today with me your representatives from community care, Seton inpatient diabetes program, the sustainable food center, the community health workers association of Travis county, the American diabetes association, the city of Austin healthy connections program, and the Austin diagnostic clinic. You know, the central Texas diabetes coalition is a key partner in these efforts helping to coordinate everything that we're doing in our community related to diabetes. As you've heard diabetes is really a very serious health issue. We've heard that one of every 13 people is living with diabetes in Travis county, but in addition to that one out of 16 adults in Travis county has been told that they have prediabetes.

[6:26:34 PM]

And I bet that each and every one of you have been touched by diabetes, whether it's a family member or yourselves. As was mentioned health disparities around diabetes are evident and must continue to be addressed. There are higher rates of diabetes type two among African-Americans and hispanics. And one of the ways that the health department is addressing the disparities is by eliminating barriers to diabetes self management education. Hhsd's community diabetes initiative reached people last year with free diabetes education classes in neighborhood centers, schools and the faith-based community. This year we've worked with the asian-american center to offer classes for the south Asian and burmese communities. As you know diabetes is a chronic illness that if not managed it can really impact quality of life, but the good news is that diabetes can be managed. The city of Austin is also very committed to addressing the growing issue of diabetes in the workforce and healthy connections. The city employees wellness program has a robust diabetes program with individuals engaged in the program have considerably higher rates of compliance with all screenings, exams related to managing conditions associated with diabetes. We're working actively with partners to increase access to healthy foods and safe places for physical activity and the opportunity has funded a mobile produce market, expanded farm and community stands and a robust healthy store initiative to bring healthy and affordable foods to food desert areas around other under served communities. Through these efforts we want to make the healthy choice the easy choice so together we can improve the quality of life people living with diabetes or prevent diabetes in our community. Thank you very much.

[6:29:40 PM]

>> Mayor Adler: Proclamation. Be it known that whereas since more citizens come into contact with municipal courts than any other courts in the state of Texas, the public's impression of the entire judicial system is largely dependent on their experience in municipal courts. Why whereas Austin community court and the Austin municipal court personnel have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all. And whereas we are pleased to recognize the accomplishments of our Austin municipal court and downtown Austin community court personnel, including eight judges, 14 substitute judges. And 63 court personnel. And to so lieutenant their critical

role in protecting public safety, improving the quality of life for residents and deterring future criminal activity. Now therefore I, Steve Adler, mayor of the city of Austin, Texas, do here by proclaim November 7th through the 11th of the year 2016 as municipal courts week. Congratulations. And I -- thank you. I wanted to introduce judge statman, the municipal court judge.

>> Mary Jane grub and I accept this honor on behalf of all the employees of the Austin municipal court and the downtown Austin community court. It is truly my honor to work with such an amazingly kind, carrying and competent group of people. Recently I have had the opportunity to study courts in both Texas and other states and how they do things and I have to say that our court is probably one of the best courts around and it is because of our dedicated employees.

[6:31:46 PM]

Thank you very much for this recognition.

[Applause].

>> Mayor Adler: We ready?

We have a proclamation: Be it known that whereas this year Austin celebrated the fifth anniversary of achieving no-kill status.

[6:33:52 PM]

And has continued to increase the percentage of animals leaving the Austin animal center, surpassing 95% in the year 2016, and that is an unprecedented success. And whereas this accomplishment was made possible in large part by the life-saving programs developed by Austin pets alive and the vision and leadership of Dr. Ellen Jefferson, executive director. Whereas Maddie funds created to refuse lies companion animals has created an award in honor of rich, the father of the no-kill movement. And whereas Ellen Jefferson was the unanimous first choice to receive this award, in recognition of her innovation, determination and many successes leading Apa to not only make Austin a no-kill city, but also providing a successful no-kill model that can be adopted nationwide. Now therefore I, Steve Adler, mayor of the city of Austin, Texas, do here by proclaim November 5th of the year 2016 as Dr. Ellen Jefferson day.

[Applause].

>> Thank you,.

>> Mayor Adler:, thank you, Ellen. Maddie's fund is so proud to be here today to present the first leadership award. Rich is often considered to be the godfather of the no-kill movement and when we started to think of a way to honor him when he retired as president of our organization this just seemed like a natural extension of the great work he had done.

[6:35:58 PM]

And when it came time to think of who would be the first recipient, Ellen Jefferson was hand's down our unanimous choice. And not only does this award recognize Ellen, but it's also recognizing the amazing life-saving work that goes on in the city of Austin and in Travis county. None of what is done here could be possible without all of you, without the support of the mayor, the city council, the great work being done at Austin animal care center as well as Austin pets alive and Austin humane society. It's such an honor for us to be here today at Maddie's fund. And in addition to honoring Ellen with her own day, Maddie's fund is also giving her a 25,000-dollar grant, a gift to Austin -- for Austin pets alive. So Ellen -- and we actually brought the real check.

[Applause].

>> Wow. Thank you. Oh no.

[Laughter]. Wow. Okay. That's not what I thought I was getting up here to do, but thank you. This is really wonderful. I'm so proud of what we've accomplished here in Austin. And I think that it's exciting to see Austin as a -- as a pinnacle for training for other communities to learn what we've done here. There's no reason that other communities have to recreate and go through all the pain and suffering that has happened here to get to a 98% save rate. Thank you, Connie and Austin animal center. [Applause]. So we're very excited about this. Thank you very much. I'm very honored. [Applause].

[6:39:53 PM]

[Music playing. >>

[7:00:52 PM]

>> Mayor Adler: all right. I think we're ready. Call us back to order. It is 7:00 P.M. On the button. We're gonna continue on on item 66. Ms. Garza, did you want to make an amendment?

>> Garza: Yes. I passed out an amendment. Here it is. I also have actually a change to that. On the last page, on three of the bit resolved, it would be an or instead of the and in that sentence.

>> Mayor Adler: Or the animal shelter is at or beyond capacity?

>> Garza: Yes.

>> Mayor Adler: Okay. Ms. Garza moves an amendment to the motion to add the three items that are in red on the yellow pages that have been handed out. Is there a second to those? Mayor pro tem seconds the amendments.

>> Garza: When this came before health and human services, I'll be honest, I didn't have the full understanding of what we were doing, and what I heard several times was we're changing it to first impoundment, it's permissive, it's permissive, it's permissive. I thought it was on both ends, permissive on the animal director's end and owner's end but that is not in case the practice. The practice now is -- right now, if an animal is impounded the second time, the owner, regardless if they want it or not, that pet will be spay or neutered. So now we're moving that to first.

[7:02:54 PM]

If we change that we're saying on first impoundment, regardless of whether the owner wants it or not, and I don't support that. And I also -- I absolutely hear all of the issues that everyone has said here today, and what I'm hearing is, I don't see the correlation between the small amount of numbers that this affects, the correlation to -- of course we don't want wild dogs out there and -- hurting people and of course we don't want our no-kill policies being compromised, but I don't see the correlation in how this number of animals that are in this -- subject to this is creating that issue. If we want to have a broader discussion about mandatory spay or neuter ban throughout the spay that's a whole other conversation that is not before us. So this to me allows the owner to say no on that first time within the constraints that are defined here.

>> Mayor Adler: Amendment has been moved and second. Discussion on this? Ms. Houston.

>> Houston: Thank you. Thank you, councilmember Garza, for your explanation. I'd like legal to come up and kind of talk to us about what is currently in the code, as far as the discretion of the animal service officer and the city manager as to that they must sterilize on second impoundment. That? The code?

>> Sandra Kim with the law enforcement. No, that's not -- law department. No, that's not currently in the code. Currently it still says that serialization may happen once the animal is impounded one or more times.

>> Houston: It says serialization may occur if the dog is impounded two or more times. It doesn't say must be, shall be, it says may be.

[7:04:57 PM]

>> Correct.

>> Houston: So that's left up to the direct your attention of --

>> The city manager.

>> Houston: And animal service.

>> And manager of the animal shelter, yes.

>> Houston: If we change it to first impoundment, that stays in T code. That nothing changes, is that that may?

>> Right, the may remains the same. What you're changing is the timing of the serialization. It would happen after first impoundment as opposed to second impoundment.

>> Houston: It's not in the code so it must be standard operating procedures that people are talking about, about they shall.

>> Right. I believe that's a department procedure.

>> Houston: Okay. Thank you.

>> Thank you.

>> Mayor Adler: Yes, Ms. Pool.

>> Pool: So dog is impounded and the owner is notified to come get the dog and the dog is not yet altered, so what is the practice of our staff at that point when they return the dog to the owner? There's some kind of notice given, correct, tap.

>> I can't speak to the practice, I'm sorry, I'm gonna have to defer to the department.

>> Good evening, mayor, council, chief animal services officer. Depends on first or second impoundment what happens. In conference reference to the discussion we're having, if it's second impoundment, the code does say may. The way the standard operating procedure was written by my predecessor, interpreted it as shall. And so that's what happens on second amendment -- excuse me, second impoundment and I believe we're talking about 20 to 30 dogs.

>> Pool: The point that I wanted to get to was the issue of notice. Because I think Mr. Clinton talked about the notice of -- and maybe he would like to come up and I can direct a couple of questions to Ryan. The point that I wanted to explore a little bit was, have we told the owner of the pet that we are going to spay or neuter this animal?

[7:07:04 PM]

If we do it per missively or not on first impoundment. I think we're missing the piece of notifying the owner of the animal and I think that's critical in order to ensure trust with the community and also to ensure that we're not driving this issue underground so that nobody -- so that people are afraid to bring their animals to the city. So how does that work on first impoundment?

>> Houston: Mayor.

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: Councilmember pool, probably that's better for the staff because I don't believe Mr. Clinton works for the city. So he would be able to address --

>> Pool: I appreciate that, Ms. Houston, but I have elected to talk to Mr. --

>> Houston: That's fine we would have to ask staff anyways.  
>> Pool: You're on the animal commission --  
>> I'm not, I'm sorry. I can speak to the policy you are discussing.  
>> Pool: It's your testimony earlier today because you touched on these points that I wanted to explore. Thank you, councilmember Houston.  
>> You're right, councilmember pool. I apologize.  
>> Pool: Please, if you could expand on that.  
>> I think the policy issue that you're touching upon is a due process issue, does -- do owners, are they on notice that if the animal comes in, that this is one of the potential consequences that could happen? And I think that you have smartly touched upon the fact that even under the current "May" that could be an issue, that we're not sure whether or not -- that's my son. I apologize. We're not sure whether or not they're gonna know prior to that. I do think that's an issue with the may because we have not clearly told the public that this is one of the potential consequences that they would have this happen against their will.  
>> Pool: So I'm thinking that in looking at the amendments that councilmember Garza is offering up here, which allows for the -- it actually -- it doesn't seem to really change too much about what we're doing already.

[7:09:14 PM]

And maybe legal staff can help me with this. Because what I want to be able to be sure of when I talk to the community is I want whoever owns the animal to know that we will spay or neuter this animal if we see this animal a second time. I think the due process and the notice is key. And then I also want to make sure that whatever we do doesn't put either the city manager or our director of animal services in an untenable position and where they incur some liability that we completely have no intention of incurring. And so I think that the voluntary nature of having the spay and neuter is important at least before we -- neuter is important, at least we have to give notice before we take those steps. So can you tell me how the amendments on councilmember Garza's version of this change what we would do now?  
>> I'm not so sure it's addressing your notice issue. I think the first question is whether or not the shelter even knew that the animal had an owner would be the first question for them to reasonably be able to notify the, quote-unquote, owner. The closest thing that this amendment addresses in terms of ownership is the number 2, when it states that part of the expiration of the animal services' three-day hold period because that's a period -- the animal services takes one-week on the fourth business day of impoundment.  
>> Pool: Right.  
>> Before that happens the prior owner can come reclaim the animal. And so number 2 is in compliance with our current code. I'm not sure if I'm answering your question though.  
>> Pool: Then after the city takes ownership of the animal, if it has not been claimed on the fourth day, do we then spay or neuter that animal?

[7:11:19 PM]

That's a choice that's left up to the city manager and the animal services director?  
>> Right, right.  
>> Pool: And this talks about the reasons why you would choose not to, if the surgery could harm the animal due to the animal's age or health, if the animal was fragile, unless the animal's surgery would require the animal be held at the shelter overnight and the shelter is beyond capacity at that time. Is this where the -- you kick into the support services of the various rescue groups? Because obviously we can't

build impoundment kennels for all of the animals that we will ever see. We really rely on the volunteer groups in the community.

>> Yes, we do, we transfer over 3500 animals to Austin pets alive, work closely with the Austin humane society, nearly a thousand, between six and 900 and then 140 rescues so they're critical to what we do. As far as notification, clarification, if a pet is impounded on the first time they're notified about 3-2-91. They know on second impoundment their pet would be sterilized if it came in again so that's when the notification is happening.

>> Pool: Right. That's right. That's important. The difference here is that we would change that. We would sterilize or neuter the animal without notifying the owner of that pet. Assuming you could find that person. And if you can't after four days the animal transfers to our oversight anyway.

>> That's correct.

>> Pool: The key piece is the notification and trying to find the owner of that animal and that's the part I can't move away from. That is what our policy is at that time and I don't want to change that piece. Then my question becomes the -- does -- do the changes that councilmember Garza has offered up, if I support these, what does this do to our current policies?

[7:13:23 PM]

And procedures?

>> Right. I think it takes away that safeguard that you're talking about, the first impoundment versus second impoundment. You can't give the warning to that owner on serialization happening after the second impound. So unless we can build in some other safeguard that we can think of, but, right, I think that would take away that opportunity.

>> Pool: Yeah. I guess I'm at a place now with this that I feel like the existing policy and procedures should be allowed to work. I don't know that there's a problem that -- to change -- or that the changes that are offered, I don't think they really go to the question. If we're actually talking about loose dogs, dogs running Lucius whether spay or neuter or not, if they're not owned by anybody, they're still gonna be running loose and that's a different issue. As close intake my health issues Clinton maybe we should take up breed restrictions or size of dogs allowed in apartments. Those are the policy issues we should take up, not whether the animal that happens to be in our custody for the first time is altered. Thank you.

>> Houston: Mayor? Mayor? Thank you. The issue was not pets who are owned by people. The issue is the loose dogs that are running around in districts 1, 2, and 3, that are being vicious, attacking older elders, children, and I think most people in this audience know that if a male dog is neutered, their whole behavior changes. They're not as aggressive. We have packs of dogs that are roaming and if they're picked up they don't have owners so we can't contact anybody.

[7:15:23 PM]

So we've shifted the issue from loose dogs and trying to control their breeding as we keep letting them roam loose in the community to owners -- pets who have owners that we can track down. That was never the intent of this. It was about loose dogs. And those dogs who do not have an owner and how do we keep them from going back intact into a community and being able to breed over and over and over again. And this probably is not a big issue for a lot of people in this chamber because you don't see the kind of issues that we see or I see in my district when there are lack of controls in the community. So that's what we were trying to do, is trying to address the loose dog population, not the owner population. I think how many owners did we -- dogs did we return to owners during your study? About 90 -- 94 -- I have it.

>> Do you have the survey in front of you?

>> Houston: 94 declined to have their pets spay or neutered but I don't know --

>> 209, 209 were returned to their owners in the 6-month study.

>> Houston: And we spayed them?

>> 96 declined.

>> Houston: 96 of the 209 declined. So I just want to remind people we're not talking about owner pets. We're talking about the loose dogs that sometimes get into the shelter. Sometimes not because we have managed intake, but when they do get into the shelter and there is no owner, then I think before we do anything we need to make sure that they're not going out to continue to breed.

[7:17:27 PM]

In my community. Perhaps not yours, but in my community.

>> Pool: Well, I just have a follow-on question to that then. I thought if we didn't have a owner, we would hold them for four days and we would spay or neuter them. Is that correct?

>> That's correct on the 4:00 day they become property of the city of Austin and scheduled for surgery.

>> Pool: My understanding from being a rescue pet owner for, like, my entire life is that it's important to do the spay or neutering at a young age because behaviors are learned and you can spay or neuter an older animal and it doesn't necessarily change aggressive behavior. Is that a training thing or is that a hormone thing?

>> It's a combination of biology and behaviors, I think, and of course the sooner you can spay or neuter a pet the better -- younger pets. I do know the veterinarian field, there is some discussion on not doing it too young because of medical repercussions later. So there is a threshold there where not spay or neutering juveniles or elderly or sick but it is a combination of biology, I think, particularly with male dogs, and then also, as you're saying, learned behaviors. So, you know, it's best to do it -- if you know you're going to do it --

>> Pool: At a young age.

>> The thing that's real important and I know you know this but it bears repeating, we sterilize over 40,000 animals annually in our community. Our program is robust. We spend \$600,000 on our spay or neuter in our community so we absolutely understand the importance of it.

>> Mayor Adler: Mayor pro tem.

>> Tovo: My question has been answered.

>> Mayor Adler: Ms. Garza.

>> Garza: Yeah. I just want to clarify. If the intent of the resolution for my amendment of the thing that passed out of health and human services was strictly about stray dogs that have no owner, this changes nothing. They still -- that stray dog with no owner on the fourth day gets spay or neutered.

[7:19:30 PM]

Nothing we do today regardless of what amendments changes that policy. With regards to how is this different, you're right, in practice it really isn't different. I would say the changes, it codifies the exceptions because right now the exceptions aren't really codified. Is that right? They're just standard practice if the animal is too old or can't survive it --

>> That's correct, standard operating procedure. Ms. Kim, is that correct?

>> Right. It's not in the current code.

>> Right. So it's a standard operating procedure.

>> Garza: So it just codifies the exceptions with regards to concern about notice, this could be changed to say the city manager, manager of the animal shelter may sterilize an animal on first impoundment

unless and the second sentence could say "Shall on second impoundment" if that clarifies. That to me brings in what the practice currently is as well as codifying the exceptions for both, "May" on first, "Shall" on second with these exceptions in place.

>> Mayor Adler: Councilmember Renteria.

>> Renteria: You know, we've been talking about neutering -- the harm that it might be able to cause the medical benefits when you neuter a cat or a male dog or a female? My understanding, animals like that have the same problem as humans with cancer, overviewery cancers -- ovary cancers, they have all these complications. Unless you're planning to breed the animal, I mean, there is medical benefits for it.

>> There -- I was seeing if Dr. Jefferson was still in the room is since she's a veterinarian. She's not here, is she some yes, there are medical benefits. I believe testicular cancer in male dogs. Behavioral benefits and medical benefits and usually those are the discussions we'll have with owners.

[7:21:34 PM]

That's the counseling and I try not to use the education word because it's really a partnership with residents and pet owners where it's a collaborative process where we're learning with each other and building trust. That trust is paramount and when they understand -- a lot of folks are resistant, once they understand, we create an ambassador, someone that's gonna come come back adopt or maybe donate or volunteer or try and get a job with us so, yes, sir, there is.

>> Mayor Adler: What is your recommendation to the council with respect to this resolution and these amendments?

>> Well, I still stand before I the memo that I had sent out about supporting permissive that if an owner does not want to do that to their pet for the reasons I outlined in the memo.

>> Mayor Adler: So what is your recommendation on the resolution and the amendments?

>> Pardon me, I apologize.

>> Mayor Adler: That's okay.

>> Well, some really good points have been made, I think, that are important. Just depends upon the intent of what we're trying to address. If we're trying to address stray dogs, then to councilmember Garza's point, I'm not admission or saying this is not a concern, I live in councilmember Houston's district so I'm an east sider, so if that's something we're trying to address, I don't think this would be getting at that. If we're trying to make it mandatory -- well, I guess what I'm trying to -- with the amendments, I think the amendments codify and protect -- put in the code exactly what I believe we think we're doing. And if that's not what council -- it's council's prerogative --

>> Mayor Adler: At this point I'm not asking what the council wants to do. I'm sure I'll find out that in just a second. I'm trying to find out as our professional, as our animal control --

>> Yes, sir.

>> Mayor Adler: Would you recommend that we adopt this resolution? Would you recommend we adopt it with the amendments?

[7:23:37 PM]

What do you recommend?

>> If you're going to take this up, I recommend these amendments. If the council is going to consider this, I think this addresses a lot of the concerns that folks have about it being mandatory or us affecting our capacity. I think the amendments are prudent particularly with the "Or" change to the last to third one.

>> Mayor Adler: Okay. Thank you.

>> Thank you.

>> Mayor Adler: Is there further discussion on the dais?

>> Houston: Just one more question. There's a behaviorallist, an animal behaviorallist in the -- could you come up and speak to the issue of how spay and neuter helps with aggressive dogs or I was about to say cats but cats don't get aggressive, do they? They just love you.

>> Well, yeah they do. We have seen some aggressive cats. So --

>> Houston: Tell us your name Glen Sarah Stermer and, again, reside on the east side so I do see some -- quite a few aggressive cases. I'm also a canine aggression specialist so I see quite a few cases that come to me. Spaying or altering a male or female dog will definitely take the aggression down quite a few notches because they're not fighting to breed. A dog that is intact is going to fight to breed. They're gonna become much more territorial. A dog in heat is going to fight to go out and find a date so they are going to get aggressive. If a kid gets in the way of an unneutered male trying to find his mate the child will get by the. If the child crosses the pack of unaltered animals the child will get malled. We saw that in manor, that woman died, unaltered pack of dogs that had a litter of puppies. They were protecting it, territorial.

[7:25:39 PM]

That aggression is what I'm concerned about in my east Austin community. I'm concerned about that.

>> Mayor Adler: Thank you. Amendments have been moved and seconded. Any further discussion.

>> Pool: I would like to see if I could add as a friendly amendment the language about notification that councilmember Garza had also talked about, the notification piece.

>> Garza: I'm fine with -- I just don't know how to work that, may sterilize on first impoundment unless and then there could be a line that says on second the animal shall be whatever I guess legal thinks is the best way to address that.

>> Mayor Adler: Do you want to come back up and give us your advice on this amendment as well?

>> Garza: Or add another line that says if the animal is impounded a second time.

>> I guess if we said on first impoundment the city manager, manager of an animal services may sterilize an animal if it has been impounded one or more times, there's something about also notify the owner of a pet that upon second impoundment it is mandatory per standard operating procedure.

>> Pool: And the owner has been notified.

>> And the owner has been notified.

>> Mayor Adler: So this change would make mandatory on the second impoundment which right now it is permissive. So --

>> Garza: It would be mandatory on the owner's side. It would be permissive on the director's side. So the owner doesn't get -- right now the way it is, if it's second impoundment, the owner -- even if the owner says no, I don't want it done, it gets done, unless the animal -- the permissive part is the director's side, not the owner's side. So this would -- what this is proposing, what councilmember pool would prefer is it to be clear, it's still on -- on second it's still permissive.

[7:27:48 PM]

It's a notice issue, it seems like, to codify a notice.

>> Mayor Adler: But if your notice is to say that it will happen, then it -- making it sound like it's mandatory.

>> Garza: It will happen unless --

>> Pool: Unless the owner says no.

>> Garza: On first. On first, the owner can say no and that's -- that's honored. On second, the owner can't say no. The animal director can say no with these things in consideration.

>> Well, I think the exceptions for second impoundment should apply, but our standard operating procedure will be what it is now. The exceptions, if an animal was too young, elderly, or sick or -- just one second. I'm talking to the deputy. You know, what the deputy Christian Albert is saying also, the third exception is if we're at capacity. If we have no kennel space.

>> Houston: So mayor? If I may ask Ms. Hammond a question. How many animals do you spay or neuter against the objection of the owners?

>> Annually, I believe it's about 20. 20 to 30.

>> Houston: And what are -- and you just said we're gonna spay or neuter and they say we don't want you to spay and you do it anyways.

>> Yes.

>> Houston: What's the rationale for that? How do you reach that decision.

>> That standard operating procedure was created before my tenure and something we've continued.

>> Houston: And it doesn't say may?

>> It says may.

>> Houston: It says may, and the standard operating procedure they've just chosen in those 20 cases --

>> It says may in the code.

>> Mayor Adler: Does anybody have any interest in not doing this today and letting the people work on language, bring it back next Thursday?

[7:29:53 PM]

Yes?

>> This is a resolution doing the manager to go back and bring this back as an ordinance next week. So I think that we probably can craft this language not right here on the dais and come back next week and have something. I think probably what you're gonna do, if you wanted to have the amendments that councilmember Garza has suggested, and then add a line on the second impoundment the animal will be sterilized unless and have these same things here.

>> Garza: Yes.

>> I think the notice to your public is your code. It says if you have an animal has impounded these things are gonna happen.

>> Mayor Adler: Is that something you would advise us to do.

>> Yes, that is that's probably the language we'd bring back to you. I want to be clear what council is asking and I think there's some clarity right now.

>> Garza: Yeah. That was essentially what I proposed.

>> Pool: That sounds good to me too.

>> Mayor Adler: I think the record will reflect that. Is there an objection to the amendment being as was just described?

>> Houston: I'm gonna object to it because we've made it more complicated than it originally started as. It started at the animal services commission, just changing it from first to second -- I mean, from second to first impoundment. Everything else would be in the standard operating procedure, which could be modified without changing the code in case there is a new animal director or something else comes up, nationally, best practices that need to be changed. By doing this everybody -- every time something comes up this best practice we're gonna have to bring it back and have a code revision so I'm gonna and to that's fine that I'm gonna be don Zimmerman on this one.

>> Mayor Adler: Everyone is channeling don Zimmerman today.

>> Zimmerman: Mr. Mayor, I was gonna move we postpone this to next week for the reason you just mentioned. I think it's gonna come back to us.

>> Mayor Adler: Sounds like it's gonna come back to us in ordinance language any how.

>> Zimmerman: Got it. Can I call the question?

>> Mayor Adler: First we have an amendments that been offered so we need to take a vote on the amendment as the record would reflect and as I think you understood.

[7:31:58 PM]

And when the resolution comes back, we could do whatever we want to with the resolution. So that amendment has been moved and seconded. Is there any discussion? Those in favor of the amendment please raise your hands. Those opposed? Ms. Houston voting no. The others voting aye. Ms. Troxclair and Ms. Gallo off the dais. Now we are on the motion as amended. Any further discussion? Those in favor of the resolution please raise your hand. Those opposed. Ms. Houston voting no. It's the same vote we had a moment ago. This resolution passes. We'll see an ordinance next week. Okay. Next item for us, councilmembers, in item 43 we took up earlier, which was our nominations and appointments, our page that was hampeded out to everyone included an intergovernmental nominee, Robert choppa junior but did not reflect what the nomination was and it is for the austin/travis county integral care board of trustees, making that appointment jointly with Travis county. We need to correct that. So as someone who voted in favor of that I move to reconsider that so we can change on it and vote on it again. Is there a second to the motion to reconsider? Ms. Pool. Any discussion. Those in favor of reconsideration please raise your hand. Those opposed. It's unanimous with Gallo and troxclair off the dais. I now move adoption of the nomination of Robert choppa to the Robert Travis county entity governmental board of trustees, seconded by Ms. Pool. Those in favor please raise your hand. Those opposed. It's unanimous on the dais, again, with Ms. Troxclair and Ms. Gallo off. So we've now taken care of that. Do we want to - - trying to pull the things that would have the greatest number of speakers here.

[7:34:03 PM]

Let's do item number 78. Is staff here to -- I think we're down to the last four items. While we're waiting for staff to come, 76, let's do that one.

>> Retiring mayor, Virginia Collier from the planning and zoning department, first of the two public hearings. The second hearing is scheduled next Thursday, November 10 hear at 4:00 P.M. Council doesn't take action at either of these hearings. Ordinance readings are tentatively scheduled for December 1. This area includes approximately 104 acres in eastern Travis county, decker lane and Lindell lane. Northeast and south sides of the tract. The area is largely undeveloped and contains the remaining portion of the Travis county wildhorse P.I.D. And. Annexation is scheduled to occur in September in which council did not object and directed the annexation of that portion of the P.I.D. Currently not in the city's full purpose jurisdiction that the entirety of the P.I.D. Would be located in the same jurisdiction by December 31, 2016. The city will provide full municipal services to the area as described in the service plan, copies of which are available online in the agenda backup and this concludes the staff presentation for item number 76.

>> Mayor Adler: Thank you for that. We have no speakers of that signed up. Is anybody here to speak on this item? Is there a motion to close the public hearing for today subject to the subsequent public hearing? Mr. Zimmerman makes that motion. Ms. Houston seconds it. Those in favor of closing the public hearing for today please raise your hand.

[7:36:06 PM]

Those opposed? Unanimously on the dais with Ms. Gallo and Ms. Troxclair off. Thank you. We're on a roll, let's see if we can do 77. We have outside counsel here for that. 77 is the gas rate case. Mr. Robbins is here to testify. Do you want to visit again?

>> Mayor, council, Clark, Rondella Hawkins is on her way here in about 30 seconds if you can take two breaths.

>> Mayor Adler: We can. In the meantime, Mr. Robbins, do you want to address us waiting for counsel, for staff to come?

>> Hi.

>> Mayor Adler: Hi.

>> I've been busy lately. I don't know -- busy lately. I don't know everything that's going on in the world. Can someone on council please tell me was this ever taken up by the public utilities committee?

Councilmember Zimmerman, councilmember Kitchen, councilmember Dell yeah do you remember this ever being before you? Has this ever been given to a city board and commission to review is this.

>> Good evening, Rondella Hawkins, regulatory affairs office. The question is has this rate -- the Texas gas rate case been before a commission?

>> Sitting board and commission.

>> No.

>> Mayor Adler: I think the answer to that is no. But you have some of your three minutes left to talk to the council if you want to.

>> And my first point is that this is being brought to council at the 11th and a half hour without very much time -- you've got maybe one week to change your mind if you want to.

[7:38:17 PM]

And it really hasn't been vetted by this community. As you can tell, I'm just a little indignant. The other main point that I have is that I believe that this rate increase could be mitigated if the gas company were to collect full capital recovery fees similar to what Austin's utilities already do now. Our water utility, wastewater utility, electric utility asked for 100% capital recovery fees, and I have tried to communicate this to Ms. Hawkins. She doesn't agree with me, so I have to appeal this to council and ask you to bring this matter up. I mean, I am -- if Texas gas service collects full capital recovery fees, this should not affect its rate of return. This should be revenue neutral. This should not be an item of great contention but it was never brought up in the discussions, to my knowledge, and unless you bring it up, it won't be. All of you were elected to 1 degree or another to help Austinites -- to make Austin more affordable. And this is one way that will mitigate the rate increase. Thank you.

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

>> Zimmerman: So talk to me again about -- this is a regulated monopoly effectively, right? I think you mentioned in some earlier comments that one thing the elected council presumably has the authority to do is to not renew, you know, a franchise agreement.

[7:40:29 PM]

There's some power the council could exercise, but --

>> I looked at the franchise agreement this morning, and I am theoretically accurate. You would not have immediate satisfaction. The agreement is a 20-year agreement, I believe we would have had to have notified them a year ago if we wanted to cancel it in midterm. This item was not up then for discussion. It was not on my radar.

>> Zimmerman: Fair enough. Let me get maybe to a more practical point. I think some of the capital expenses have to do with changing codes or changing requirements. You know, on the gas company. In

other words if you have the existing infrastructure, somebody comes expansion said, well, we don't think that's safe, we're gonna change the codes and demand some new infrastructure improvements to our existing base of customers. So who would pay for that? The current customers would have to pay for that.

>> Yeah.

>> Zimmerman: So then you're trying to split 100% new construction versus changes to the existing, you know, infrastructure, and I don't even know how do I get accurate information on which is which?

>> I've tried, and either they don't have it or they will not give it to me I do not know which. But, my god, they should have had it. This couldn't be that hard to get if they wanted it. And let me just quickly clarify that I did bring up the franchise fee for a reason. Even though we don't have immediate satisfaction, the fact is, you've licensed them and it is in their best interests to get along with you. And if you say to them we want full 100% capital recovery, I tend to think they'll listen.

[7:42:36 PM]

They're gonna listen more than if I say it.

>> Zimmerman: Okay. One more point, just one more point. We had capital recovery fees in our own monopoly, the Austin water utility. Remember we had a big argument up here about the pilot knob deal where our capital recovery fees were supposed to pay for pilot knob were getting diverted and moved to the Austin housing corporation. So we've got issues, Mr. Robbins, even with our own monopolies we have issues.

>> No question. But I will go back to what I said this afternoon. And that is that in the case of Austin energy, it worked and you were able to give a rate decrease in part because we now collect full capital recovery fees. The amount when it was passed, I believe mayor pro tem tovo actually made the motion, the -- that was about \$13 million, which ironically was about the original proposal that Austin energy had for their late decrease. Now, of course it went up, but my point is, in that utility, it worked.

>> Zimmerman: Okay. Thanks.

>> Mayor Adler: Staff will come up and talk to us about this then.

>> Good evening. Mayor, councilmembers, rondella Hawkins. Wanted to briefly introduce the item. It's regarding Texas gas services filing with the city of Austin and other affected cities in the central Texas service area. Its statement of intent to increase annual revenue by 11.6 million or 16.4%, increase in base rates. The other cities in the service area include bee cav, cedar park, dripping springs, Kyle, lake wood, rollingwood, sunset valley and west lake hills.

[7:44:37 PM]

Texas gas service also filed with the railroad commission of Texas which has jurisdiction over Texas in the unincorporated areas in central Texas. The the last rate case Texas gas service filed was in 2009. The city engaged consultants to review the rate filing and represent the city at the railroad proceedings. Since Texas gas service filed with the railroad commission we are [indiscernible] In those proceedings and worked together with the other cities as a coalition. After numerous settlement discussions the parties reached a tentative settlement agreement to an increase of 6.8 million, which is a savings of 4.8 million or 41% compared to the initial proposal of 11.6 million of the proposed settlement. Keeps the monthly customer charge for residential customers at the current rate of \$15.20, Texas gas requested a monthly rate of \$21.25. The proposed settlement increases the monthly commercial customer charge for -- from \$33.40 to \$38. And staff does recommend the proposed settlement, the effective date of the rates would be November 1. And that concludes my presentation. We do have Thomas with Lou goslink outside counsel if you wanted any further details. Thank you.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: I would like to hear maybe a response to what Mr. Paul Robbins was talking about as to how the capital recovery fees play into the increases and what part of the increases potentially are going to -- you know, new construction and new customers. I think it's a very reasonable question.

>> Good evening, mayor, councilmembers, Thomas, Lloyd Gosling has Ms. Hawkins indicated, outside counsel on this matter.

[7:46:44 PM]

Mr. Robbins is correct, that you are a regulatory authority. You have legal authority over the rates that tgs charges within city limits but you are not the ultimate decision-maker on this matter. The railroad commission has appellate jurisdiction over the city on this matter. They have not taken final action. They're expected to take final action on November 15. Just yesterday the judge that presides over the case recommended adoption of the settlement to the commission without any adjustments to it. The reason I bring this up first is because the commission has approved the tariff that is being discussed by Mr. Robbins in two prior cases involving tgs. My full expectation is that they would approve this tariff since it was not contested when they take final action on the 15th. So I do want to make you apprised of that at this time, meaning no matter what you do on this if the company were to receive an adverse decision, they do have the right to appeal that to the railroad commission where it is highly likely that tariff will be improved and imposed within the city limits. Putting that aside, as Ms. Hawkins indicated this initially was an \$11.5 million rate increase proposed by the company. We were able to reduce it down to 6.8 million, which is an outcome that I think is certainly better than you would likely receive at the railroad commission and we avoided spending litigation costs as a result of this settlement. Part of that reduction was to remove certain costs that we identified as being unreasonable. We didn't specifically take issue with the amount that the company collects or -- that the company collects or as many Robbins would claim didn't collect for contributions to native construction, which is really what we're talking about here, but we do believe that the overall outcome is a reasonable one.

[7:48:45 PM]

Now, specifically on the dollars that he's referring to, we did do just in the last couple of days in response to his concerns about some of those numbers, and according to the company's cost of service model, the company included \$15.3 million in customer advances or contributions. Those served to reduce the company's rate base because when the company does investment and then receives from the customer contributions, that serves as a reduction to rate base. That had an impact of reducing the revenue requirement by about \$1.7 million. Also, over the last three years, tgs has invested about 10 million per year to add new customers. And so the result is that during the test year, all things being equal, that the amount of customer advances exceeded the amount of the new customer connections. So that's a long way of saying that consequential that this is a reasonable outcome -- we believe this is a reasonable outcome. We also had examined the line extension policies of other gas utilities and electric utilities in the state, and I will tell you that almost unanimously where there's a contribution [indiscernible] construction it is reduced under a tariff by a formula that takes into account the additional revenues. What that means is when a utility has a new customer and they say, we have to invest these additional dollars in order to serve you, here's what your contribution would be, that is reduced by the additional revenues that are going to be received from that customer. And so in that way, other customers are not harmed and it takes into account that new load produces new sales, new revenues for the utility.

>> Mayor Adler: So my sense is that where we are right now on this is we -- we either approve this or we don't approve this but it's gonna get approved by the railroad commission.

>> I don't want to minimize your role because cities as regulatory authorities over these matters is important for a number of reasons, but, yes, at the end of the day, if you were to reject this settlement - - and I should add the other eight cities have all now approved the settlement agreement.

[7:50:55 PM]

If you were to reject it the company has under the gas regulatory act the right to appeal that to the railroad commission 37 as I mentioned we expect that the railroad commission in the next 12 days or so will approve the settlement for those areas that it has original jurisdiction over. So if then they were to get an appeal from the utility, subsequent to that, it is certain they would approve it.

>> Mayor Adler: Here's my question or my point on this. At this point, this is kind of -- even though there's some -- it's effectively decided at this point. And it may not have been that the question with respect to capital recovery fees full contempt would have generated additional dollars that you could have asked for in a rate reduction or not. Without judging that issue. I'm trying to think how in a process like this in future years there's a way for the community to be able to weigh in on considerations they would like the city to have in a way that it would be timely. And I'm thinking that maybe if there had been a public hearing, as you were entering into the gas rate case matter, for the community to be able to say these are things that we think you ought to consider or no. Then some of those things might have been daylighted since at the end of the process it's effectively out of time. So I'm just trying to book mark that for this and for any other similar processes there might be that that might be a way for us to daylight these issues earlier.

>> As to your first two points, you're correct. The outcome is largely going to be determined when the railroad commission decides the case in another week and a half. Regardless of what you do. The second point that you mentioned, if we had done a more thorough or exhaustive review of this issue and even the information that we have gotten in the last couple days indicates that we would not have been in a position to request a larger reduction from the company's request, so we would still have been in the same \$6.8 million settlement, and then as to your third point, while certainly the council can implement any sort of process they would like to see, I would note that the company did provide notice to all customers through bill inserts.

[7:53:32 PM]

A number of customers did contact the city. They certainly had the right to participate in the proceeding over at the railroad commission. I spoke personally with a couple of individuals with the city who as consumers had concerns that ultimately did not intervene in the proceeding but they could have done so, so there wasn't at least some formal opportunity and possibility for individuals to be heard.

>> Mayor Adler: That's all very good too. Maybe we consider doing something like this as well.

>> You certainly could.

>> Mayor Adler: I would ask that you don't let us miss that opportunity in the future if that's something that the council wants to provide the public that opportunity. Any further -- is there any comment on this? Ms. Houston.

>> Houston: I just have a question. I received the notice in the mail ask it looked like my rates were gonna go up \$5. Is that about what that is now?

>> As a result of the settlement agreement, the impact to an average residential customer on an annualized basis or -- is about \$28 per year. If you divide that by 12 months, it would be about \$2.33 per

year. That's in comparison to what the did was originally proposing as included in the notice that you received.

>> Houston: Okay.

>> That impact of course will vary depending on residential customers' actual consumption. Typically in central Texas you have a couple months, January and February, typically where bills spike so in those months you may see a larger increase but in the other months, particularly the summer months, where consumption is less, you would see a smaller than \$2.33 increase. But if you took it and spread it across the year, that's the impact on an average residential customer under the settlement.

>> Houston: Thank you.

>> Mayor Adler: Let's get a motion on the floor. Is there a motion to approve this item number 77? Ms. Houston moves. Is there a second to that motion? Ms. Garza seconds it. Ms. Kitchen, do you want to say something?

>> Kitchen: I had a question.

[7:55:33 PM]

So to follow up on the mayor's question about the process here, because I think that the question of full cost recovery, if I'm using the right term, is a important policy question. So I'm still not clear on when and how we could address that question. Is it only during these rate hearings that that kind of issue can come up, or is that a policy issue that could be discussed and considered outside of that process?

>> It could be considered outside of that process. As a regulatory authority, you have the legal right to request information to regulate the services that tgs provides within your city limits. If you wanted to do a review, examination of that tariff and even make changes to it, you have the legal ability to do that.

Again, I would remind you they have the right to appeal any decision of the city to the railroad commission, and so you would then have to defend it at the railroad commission. And as I've noted, they have previously approved it, the existing tariff at the commission. But nevertheless, you could engage in negotiations and hopefully work out some agreement with the company. Perhaps they would be willing to make some modifications under certain circumstances. And if you weren't able to reach an agreement and still wanted to move forward and there was an appeal you could do what you could to try to convince the railroad commission that this was an appropriate decision of the city and the tariff should be changed.

>> Kitchen: I'm not suggesting that as part of this process. I'm simply thinking about the policy because it is a policy that is similar to other policies that we have considered, that, you know, relates to the cost of growth and who pays for it and those kinds of things. And so we have consistently examined those kinds of policies in other arenas. I don't know enough about the issue to know if it's appropriate here or not. I was just wanting to understand if that was something -- a policy that the council wanted to review, when we might do it. So thank you.

>> Sure and it is similar to the economic development rates that we've seen in the past and indeed we've talked about it in the context of Austin energy previously, about economic development and whether, you know, dollars spent on such activities is a reasonable utility expense.

[7:57:48 PM]

And as I've indicated to y'all previously, the public utility commission, at least for electric utilities, has allowed electric utilities to recover such investments because they recognize that adding new growth serves to increase billing determinants and, therefore, all things being equal lower the per unit cost for electricity.

>> Mayor Adler: Okay.

>> Kitchen: Thank you.

>> Mayor Adler: Any further -- Mr. Zimmerman.

>> Zimmerman: Just one more, one more quick thing. You know, we've had -- when we have rate reviews, we talk a lot, especially in the water utility that we have here, about tiered billing and tiered structures. But that's not part of the changes that we're contemplating? We don't have tiered billing, do we, in the gas service? Linear bill, as far as usage goes?

>> That'

>> That's, that's one rate for the linear class. I think there's a number of reasons for that, but that's correct.

>> Zimmerman: Mr. Mayor, I'm going to vote for this, Mr. Mayor, but I recognize Mr. Robbins' concerns. I have them too, but I want to get our own monopolies in order before I really put the scrutiny on this, we need to get our own monopolies and own recovery fees working correctly before we go after the gas service and the gas service covers a lot more areas than just Austin. Austin utility is just Austin. Thank you.

>> Mayor Adler: Moved and seconded to adopt item number 77. Let's go ahead and take the vote. Those in favor please raise your hand? Those opposed? It's unanimous with Gallo and troxclair off the dais.

>> Thank you, mayor.

>> Mayor Adler: Okay. That gets us then to the is item number 79 controversial? If that's going to be quick I'll call that first and let the staff leave. If that's going to be lengthy then I won't. Does anybody know? Do you have a feel for that?

[7:59:50 PM]

Let's call up item number 79.

>> Good evening, mayor and council. I'm Chris Johnson with the development services department. This is a alcoholic beverage waiver for snarf's sandwiches that is located less than 300 feet of Texas school for the deaf located on south congress. This is a proposed restaurant. The measurement for a public school is property line to property line, but because this is the back of the school property, separated by the creek, the restaurant is actually not visible from the school property. And the nearest entrance to the school property is more than 700 feet away. So given this, staff recommends approval of this waiver and if you have any questions, the applicant's representatives are here.

>> Mayor Adler: Okay. Commission approve this as well? Was there a commission consideration of this?

>> No. This is the only public hearing.

>> Mayor Adler: Thank you. Is there a motion to approve this item number 79? Mr. Renteria moves? Is there a second? Mr. Zimmerman seconds it. Is there any discussion? We have one person who is identified as wanting to speak, I guess the applicant. Does anyone want to hear from the applicant? Does the applicant want to address the council?

>> I'm available for questions.

>> Mayor Adler: The applicant is here ready to answer any questions. Any questions for the applicant?

>> Houston: I just have a question for staff. Is there access to snarf sandwiches from the school for the deaf? Can you walk over there?

>> The measurement to the nearest entrance is actually a service driveway off of Elizabeth. You could walk there, but it would be from the service drive and it would be well over 700 feet.

[8:01:52 PM]

>> Mayor Adler: Okay. Anything else? Mayor pro tem?

>> Tovo: I just wanted to say that we had another case that was directly across from the entrance to the Texas school for the deaf and I didn't support that because, you know, whether -- regardless of whether the school for the deaf administration weighs in, I think we still have a responsibility to make good decisions. And I think it was councilmember Houston who pointed out many of those students, if not all of them, are residential students on the campus, and their parents were probably unaware of that kind of thing going through. But in any case I didn't support that and I still regret that that waiver went through, but for me this is a different matter because it is really -- I understand the distance boundaries and it is further away and seems to me to represent a very different kind of case.

>> Mayor Adler: Thank you. Any further discussion? Ready to vote in those in favor of this item 79 please raise your hand? Those opposed? Ms. Garza votes no. The others voting aye. Troxclair and Gallo off the dais. It passes, thank you. That gets us to the last item, which is item number 78.

>> Good evening, mayor and council, mayor pro tem. Andy lien sants, development services. Item 78 is an ordinance waiving provisions of city code title 25 to incentivize preservation of a 41.04-acre tract of land at 2636 bliss spillar road located within the Barton springs zone and allowing construction of a commercial development of 12.8-acre tract of land located at 12501 Hewitt lane.

[8:03:54 PM]

In your backup there are a lot of maps, but I would like to present a brief summary of the deal, what we're doing, what the project consent agreement is a way for staff to come forward and recommend to you that council weigh in on a disputed 245 claim. The applicant, which is -- chapter 245 grandfathering. The applicant made a claim. We have denied it. They have appealed our decision. We did a reconsideration and staff believes that it is in the city's interest that there is enough murkiness to the claim that if we could come to you with a proposal to resolve the differences that that would be an acceptable solution. We've worked with this applicant for many years on this exact proposal, back and forth, tried to reach an agreement on it. At the end of the day I'm going to read some pieces out of exhibit D that's in your backup to the ordinance that kind of highlights what the exchange does. The proposed pca terms on the exchange tract which limits the impervious cover to a maximum of 2.12 acres or 7.4% of the net site area. The exchange tract is in the Barton springs zone. Subject to the S.O.S. Ordinance. This reduces the impervious cover to approximately half of what they could get under S.O.S. This is a significant reduction. Prohibit any new development on the northern portion of the property as shown on the applicant's exhibit B, also in your backup. Remove the existing 4 H barn interior north of the creek and restored with any vegetation. Install a boundary along the southern water quality zone. These would be executed through a conservation easement or other similar document to place these restrictions on the tract in exchange for the incentivizing on the other piece. The other piece is on Brodie lane. It's actually on Hewitt lane. 1626 and Brodie lane in the northeast corner.

[8:05:55 PM]

And on that piece of property, we would limit impervious cover to a maximum of 7.9 acres that's allowed by current code. This is in the desired development zone. Impervious cover is done on gross site areas, not a net site area calculation. Reduce the credit debt water quality zone to approximately 1.7 acres as shown on the applicant's exhibit D. Allow two crossings of the critical zone. Allow water quality detention ponds within the credit debt zone. In addition development within the drainage easement 100 year floodplain. The drainage easement that's on this property, this tract is within the etj. The easements are dedicated to Travis county. They're not dedicated to the city. The applicant will have to modify that easement. He will have to work with the the county through a separate instrument vacation or modification process before development. The easement is shown on the original plat. If they are

allowed to do that. You would allow additional development in the 100 year floodplain, again they would have to modify the easement to do that. Allow an administrative variance for up to 10 feet of cut and fill instead of the maximum eight feet as allowed by code. The applicant also agreed to protect four heritage trees and one additional one that's actually not on the property, but on a piece of right-of-way they're trying to acquire. This tract is again in the etj. We do not currently have ability to enforce our tree regulations. This is a voluntarily give that the applicant has made. It's one of the incentives they have given us. And they will do current water quality code requirements. They might be under ordinances that predate our water quality zone, our cut and fill. They would be in the county subject to 1980's regulations. There's also passed out to you an amendment, some staff proposed amendments. You have a yellow sheet that I believe you have all received.

[8:08:01 PM]

It made some clarifying things representative of some discussions with the applicant and the stakeholders. I believe you've all received an email from -- it's really been two stakeholders who have contacted us that we've been working with on this for the most part. We agreed that if before the project consent agreement expired, if they did not submit an application and they did not go forward with the project on the exchange tract,, the incentivized property, the conservation easement, the restrictions could expire. Only if they don't do it. And that would be in a period of seven years. Since this project is in the county, today they're not subject to any of our zoning regulations, our design standards or building placement, land use controls and those kind of things. The site is fairly small and constrained. And the applicant had concerns about complying with our urban core density, building location, subchapter E commercial design. And we've agreed that they will not be subject to that. They would only be subject to it if we annexed them, which I'm not sure. They originally asked us to not annex them and we did not agree to that. We said no, we will not agree to take away your annexation rights, but we will agree to allow you to complete your project as proposed as best we can. And then the neighborhood has asked for a height restriction. The neighborhood has also asked for a lot of controls that are zoning related. We've had a lot of discussions with the law department about that if we add those to this ordinance, we have no enforcement. Some of which the applicant would agree to. And they would agree to shield the lighting, for instance, he's represented they would, but if I added that to this ordinance before you and we put it in the record and we've not annexed them, we can't enforce it. Based on that challenge wife not put it in the ordinance because it's outside our zoning jurisdiction. We don't regulate things like the lights and sound and those kind of things.

[8:10:03 PM]

Even if it was in there, it's my understanding that the applicant has worked with the neighborhood and agreed to a lot of these restrictions. And Mr. Suttle is here and can speak to that. So this is a very complicated deal. For you and us. This is the first one we've brought forward to be approved. We've brought forward a project consent agreement several years ago that did not pass. So this would be the second one we've brought forward to you. It's a new thing, certainly for this council and for staff on some level. I'm happy to answer questions. The applicant is here and we can try to work through it.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I have some questions. I'm happy to hear the testimony first, but some of my questions -- let me signal that I'm going to be suggesting that we pass this on first reading only because I'd like to explore some more what you were just saying with regard to the ability to include the conditions that the neighbors were interested in. And I understand what you're saying about lack of enforcement but I would like to explore more what our avenues are on putting these kinds of conditions on it. I understand

in a Normal zoning case we wouldn't have it and I also understand we might not enforce them in a Normal zoning case, but this is a pca to I want to understand the limits on that. So the kinds of things that the neighbors have asked for is something that I would like to explore more and that's one of the reasons I'm going to ask for only first reading.

>> Mayor Adler: Okay. Ms. Pool?

>> Pool: Thanks, I'll go ahead and support that but I would ask for an executive session next Thursday so we could talk with staff about the pca. My concern about the case is there are so many unanswered legal questions and some unresolved legal issues.

[8:12:08 PM]

I think we might be jumping a gun on a few items, testing rights petition wasn't included here. That's a precursor to the pca and we're not sure whether the grandfathering rights are justified or whether a pca is the right course. I do have questions and I've directed my staff to go ahead and submit them for answers so that they can be prepared for next week so we can dig into the pca. I'd like to look at the timeline too. I have some concerns about the process. There were some flaws in the way the requirements and the vested development rights ordinance were followed in this case and the public deserves more transparency. There wasn't any notification at the pca because we don't on do that in the etj so that's something we may need to do going forward. And zoning and platting commission did not have the document that they were tasked with approving. They didn't see the document. They were given a memo, a table of benefits, but they didn't have the document so they didn't actually see what it was that they were voting on. So I want to look for ways to improve our process on these issues so that we provide the pertinent documents and information to our boards and commissions in time for their review. And of course to the general public and that fits with our concern about transparency. So I think that will also help council in understanding this particular case. And I just wanted to say I recognize that Mr. Lesniak worked to gain protections, including water quality protections and a creek buffer and protection for heritage trees and definitely appreciate that. I think the legal issues here take some precedence and I would like to see us have some more clarity as a council so we know what we're approving as why. So I was originally going to move for a postponement. I would like to make sure that we get the pieces into the ordinance that councilmember kitchen has identified. I think that's a very good idea, so I will support that. And then if we could before taking any additional action next Thursday have an executive session and kind of review all this with staff.

[8:14:15 PM]

>> Mayor Adler: So we have a motion on the table. Councilmember kitchen moves adoption on first reading. Ms. Pool seconds that motion. Any further discussion before we call the applicant up to talk? Mayor pro tem.

>> Tovo: I have quite a few questions, but given that we may be not trying to render a final decision today, I won't ask all of them, but I do need to ask a couple right now about the process. So I asked a question about staff denying -- the staff denied grandfathering went it went through the chapter 245 process. And I'd asked on what is the applicant basing the claim to established rights? The response that came back is that after the initial denial of grandfathering the applicant furnished additional evidence and legal analysis establishing what the applicant believes is a stronger basis for vested rights. So my questions -- and that maybe is something we can talk about in an executive session, but I would like to know who on the staff reviewed that evidence?

>> So this project has been around long enough that it was Mr. Guernsey who was the official for the chapter 245 and when the reconsideration occurred. Since then it was George Adams and then myself.

>> Tovo: The grandfathering was denied in 2014. I'm talking about since then. The response said since then there's been additional information that the applicant has brought forward.

>> The applicant provided additional information in 2014 shortly after -- I've got his letter with a date. Again, this request and those things happened in 2014. I think here's a memo on June 18th, 2014 when they provided that information. This has been ongoing discussion primarily between Mr. Lesniak, Mr. Guernsey and some members of what was planning development and review and now development services to try to get where staff was in a position where we would support the request to even bring this to you.

[8:16:25 PM]

And so I do want to just point out quickly as a point of order, I think we have speakers signed up and this is a public hearing.

>> Tovo: Yeah, the mayor said we were going to get to that in a minute.

>> If we would to let them speak and come back to these questions --

>> Tovo: I did want to ask these questions. The mayor asked that and I said I wanted to ask these questions before we go to the speakers. The second question is why if the applicant brought forward additional information, why didn't it go back through the chapter 245 process?

>> So a reconsideration is a continuation of the original request. We denied the original request, it came back as a reconsideration. We said we still disagree, you're still denied. And the applicant came back and said how about instead of going to court to resolve our differences we propose a project incentive agreement and we go to council and present to you and then it becomes your decision as a policy of have staff propose something that makes sense. There are issues and discussions to have about the 245 claim, and I believe that Mr. Lloyd is here and we're actually willing to have that here in the public forum without an executive session if you want to talk about the specifics of this 245, Mr. Lloyd is here to talk about it and we can have this discussion here without going into executive session. It's not incredibly complicated. We do have discussions that can be incredibly complicated. This is more of a disagreement between us and the applicant about how to interpret the law. And there's -- we can do that there. Certainly if it's council's will to have an executive session and the law department agrees that that's an appropriate course of action, we can do that, but we could also discuss some of that today if you would like.

>> Tovo: Actually, what I'm just really trying to get clear on, so it went include the chapter 245 process, the chapter 245 committee ruled against the claims of grandfathering.

[8:18:26 PM]

The applicant came forward with additional information. The chapter -- there was not -- there was a reconsideration by the chapter 245 and they agreed again it did not --

>> It was still denied.

>> Tovo: They continued to deny grandfathering.

>> Yes, ma'am.

>> Tovo: All right. Thank you. And again, I have other questions, but I'll leave it there for the moment.

>> Mayor Adler: Okay. Thank you. Let's call the applicant up. Mr. Suttle, do you want to address the council?

>> We'll give you five minutes here and then three to close.

>> Did anybody give me any time? I'll answer -- I'll try to keep it short.

>> Mayor Adler: Actually. You do. Lynn Ann Carly and Steve Matthews. Not here. Mary roar?

>> Mary is right there.

>> Mayor Adler: So you have an additional six minutes you can use at the beginning or the end.

>> Okay, thanks. Mayor, members of council, my name is Richard Suttle. I'm here on behalf of a dual purpose client here, Marbridge Farms, the current owner of the property, and H.E.B., used to be a secret, but it's no longer a secret that H.E.B. would like to build a store. So you almost have to go back with a historical perspective on grandfathering which I am very familiar with. In 1986 you heard earlier today that Mr. Duncan was talking about all the different changes of ordinances that were going on in our city in '86. And it got to a point where in 1987 the legislature stepped in and said, you know, we're going to put a little bit of a reign on that. And if you file a project, file a permit, then you are grandfathered. And if a series of permits is needed then you're going to be grandfathered on all those permits. And that law has had a little history, but it's basically still intact. So basically what you have in this property, on this property that we're talking about, is we have a finally platted piece of property that was platted commercial in 1985.

[8:20:37 PM]

Predated any watershed ordinances. We came in and asked for grandfathering on it and the city staff said no, because you really only have a final plat. And the way the grandfathering statute is set up is you have to show progress to keep your grandfathering. And progress is defined as you file one permit and then you make progress by any number of things, any one of those is filing a final plat. So we were able to come in the second time around and show we already had a plat that said it was residential. So it's clearly grandfathered. The second we filed a vacation of that plat, which is the first in the new project. And then we came back in and finally platted it, and that's the progress that makes it grandfathered. It's a grandfathered commercial plat. And I've got the 1985 subdivision memorandum that I can put up on the screen if you're interested, but you can see they did it on the same night. Vacation, final plat. Under the state law, my position is very clearly we're grandfathered. But we were already into a conversation with the staff because Marbridge and H.E.B. said, well, what can we do about this? You didn't have a project consent agreement process in your codes, so we worked with staff while the council was working on project duration ordinances and all, and stitched in -- there's a soft landing in here for everybody if you can reach an agreement, you don't even have to go to court on the grandfathering. And if you reach a soft landing, the council can do a consent agreement. And that's what we're here tonight. Hopefully for a soft landing for us both. So what we came up with was a scenario where Marbridge owns property both in the recharge Barton Springs zone, very sensitive, on Bear Creek K right upstream from recharge features. And then they own this tract that we're talking about tonight, off the recharge in the desired development zone, not environmentally sensitive at all.

[8:22:39 PM]

And what we came up with was a scenario where we got relief from a critical zone on the nonsense active tract and we increased the critical and increased the impervious cover on a sensitive tract. And I think there was an exhibit up there earlier to show you the impact of our changing ordinances. You have a tract that essentially looks like -- in 1985 when this was platted -- let me see if this will come up. That's the piece of property, and in 1985 the only restriction on that tract is a floodplain that's not shown on this, but there are no critical zones. There are no setbacks, there are no transition zones. I don't even believe there was an impervious cover limitation. There is a second document. My 2016 after several ordinance amendments, the same tract the only piece that's developable now is the triangle and in that triangle you can't even use the amount of impervious cover that you're allowed under the ordinances. So it's a big enough difference that it's worth at least talking about. So we came up with this trade where on the donor tract we would increase the critical. And on this tract we would decrease it. And for the

last two years we've been in conversations with the environmental staff on how to do it and now it seems that everybody is happy. What do you have to lose? If you turn down the project consent agreement you get to vote against it, and that's fine. I think that marbridge will go with --

[8:24:40 PM]

[buzzer sounds]

>> Mayor Adler: You can keep going. That was just your five.

>> I'll just wrap up real quick. Marbridge will have to think about will they go to the courthouse and win on their grandfathering. And if they do that then the city gets nothing. You don't get anything on the sensitive side, which is enough to do any number of developments. And on this one you would have no environmental protections. So we were hoping for a soft landing for the project consent agreement and hope that you will favorably consider it.

>> Mayor Adler: Are you okay with the staff proposed marbridge pca amendments?

>> Yes. And also in response to councilmember kitchen's -- we talked to a couple of the neighbors out there and they had asked us for several things to include in the agreement. And we have agreed to several of them. Compliance with the sound ordinance. 60-foot height limitation. Downlighting, shielded lighting, landscape buffer. Those are the things we can agree to. We're fine with them going in the ordinance. I think your law department has some question about how we do that, but we're fine with that. The two things we could not agree to is they wanted limitation on hours of any store built there and they wanted no gas pumps. And H.E.B. Is to the point now where their model store they need to keep the flexibility to have no restriction on hours and to have the potential for gas pumps. So those are the only two things that we couldn't agree upon as being part of the consent agreement. So I'll be happy to answer any questions anybody has on this.

>> Mayor Adler: Councilmember kitchen?

>> I think that one of the -- I think that one of the core concerns of the neighbors was they're interested in a grocery store. And they wouldn't want this to turn into a convenience store at some point. So I think that we had talked about perhaps also being able to include language that made it clear that this was not going to be a convenience store.

>> You can very clearly make it -- this consent agreement will -- does not mean convenience store.

[8:26:46 PM]

Will not allow a convenience store. And we're fine with that.

>> Kitchen: Okay.

>> Mayor Adler: Do I understand your motion to include the staff proposed marbridge pca amendments on first reading?

>> Kitchen: I just saw these. I don't think I have an objection to them. I was thinking more in terms of just going forward with the original, but I can include these if that's what people want to do. Okay. You need some clarity. Sorry. My motion is to go forward on first reading only, including these.

>> Mayor Adler: Okay. Any objection to that? Then that's incorporated.

>> I can clarify one of those amendments on there. We had asked -- we didn't want annexation of this tract because we know under this pca we can build a grocery store. If we were annexed we were worried that with all new design standards and all that kind of thing, we may have to go slug it out again on that. We asked that we not be annexed. City staff came back and said how about this? We're not going to give up annexation, but what is it about annexation that worries you? And we said it's the building placement and design standards. And they came back and said as long as you do design

standard sidewalks, we won't make you do design standards site plan stuff, and we said fine. And that's only if it's annexed.

>> Houston: Mayor?

>> Mayor Adler: Further questions? Ms. Houston?

>> Houston: Mr. Suttle, I'm not familiar with this tract. I am familiar with marbridge. Which is the critical zone and which is not because I can't tell on my sheet of paper? If you would point it out, I would appreciate it.

>> This will give you an overall map -- is it easier for you to see this way or should I flip it around?

[8:28:49 PM]

Marbridge is all of this area plus this one right here. The one that we're talking about here is where we want to build the grocery store. It is the one in the desired development zone and off the recharge zone. The rest of marbridge is in here and it is recharge. And then this is the piece that we're stripping the development rights off of to enable the pca for this one. What's also interesting about this is these areas here are the city of Austin's environmental lands that they've purchased. And what we're essentially doing -- remember, we're talking about when this was a 40-acre site. Let me see if I can find it here. So this is what I would call the exchange tract. And you can see where it -- this is bear creek back here. And what we're essentially saying is from here back we're going to make that into critical zone. And we're going to restore it and it will be -- and it is right dead upstream from a bunch of environmentally sensitive areas. And then we're going to restrict the development on this end of the tract to basically half of what's allowed under S.O.S. So you're getting more critical in a more sensitive area and a reduction in impervious cover. And the impervious cover that marbridge is reserving is not necessarily for development, it's for their equine therapy. They're going to do a horse barn and they have a couple of houses there for residents. So environmentally sensitive tract, this all becomes basically a conservation easement.

[8:30:55 PM]

And then on the -- this tract what happens is this blue area shrinks down so that we can put a store right here. This is deceiving. This is a 12-acre tract. The other one we're restricting is a 40-acre tract.

>> Mayor Adler: Mayor pro tem?

>> Tovo: Just to be clear about the numbers, the one that you were just looking at, I believe only three of the 12 acres are not in the critical water quality zone. That's the one billion be built on with the H.E.B.?

>> That's correct.

>> Tovo: And then you are lowering the development -- the exchange is from four acres to 1.3 acres so there's a net gain of 2.7 acres but you will be building in the critical water zone and the water quality zone in the other tract?

>> Looked at it another way, we are increasing the critical zone on the donor tract by seven acres. We're decreasing the critical zone on the receiving tract by seven acres.

>> Tovo: But the lowering of impervious cover on the tract within S.O.S. Is about 2.7. Is that right?

>> It's roughly, yeah, three acres.

>> Tovo: Can we go back to the gas station for a minute? You said that's something that the neighbors have requested. And what was the reason that it's not being contemplated? Especially since it's in the critical water quality known zone?

>> It's in the desired development zone. And it is a feature's that they -- h.e.b.'s that they like to keep the flexibilities for the future. This is a store that frankly we're trying not to design and build until txdot comes through and improves 1626.

[8:32:57 PM]

So we're trying to figure out what we're going to be doing on a store five years from now and we're keeping the flexibility to do like other stores and have the gas pumps out front.

>> Tovo: Thank you.

>> Kitchen: Mr. Mayor?

>> Mayor Adler: Ms. Pool and then Ms. Kitchen.

>> Pool: Talk to me a little bit about the gas pumps. I understand it's not a gas station. It's probably two or three pumps, is that right?

>> I don't know how many pumps it would be. I'm trying to think of the nearest H.E.B. That has gas pumps. It's probably, what, William cannon, Mary? Manchaca and slaughter. It's not like a buc-ees or something. It's usually gas pumps out in front of the grocery store.

>> So I was curious with the critical water features right there in the creek, how will you build it to ensure there's no leakage into the creek?

>> Into the creek?

>> Pool: Right. And the critical water quality zone.

>> Well, we're asking for reduction in the critical water quality zone, but basically gas pumps and gas tanks are heavily regulated, probably by the city, but for sure by the state, double walled construction, spill catchment and all those things.

>> Pool: Will they be closer to spillar road than to the back part of the property?

>> Actually, they'll be closer to 1626. We agreed with the planning commission there will be some floodplain in the back side of this and we've agreed with -- as part of the planning commission recommendation not to have any of the pumps or the tanks in the floodplain.

>> Pool: Okay. Can you just show me on the map? Because you were doing such a great job with the mileka and the map.

-- With the mic and the map.

[8:35:01 PM]

>> Here is 1626 here. The gas pumps will more likely be here somewhere. The store will be more than likely right about here. And that's probably how it will lay out. So you will have main road, if there are any gas pumps it would be here, and the store is here.

>> Pool: Thank you.

>> Mayor Adler: Okay. Ms. Kitchen?

>> Kitchen: And while you're there, I believe the language says that the pumps cannot be in the floodplain.

>> That's correct.

>> Kitchen: Can you show us where that is on there?

>> Well, the current plat has a very unusual floodplain and you can almost see it in this red line here. Are those my eyes or your focus? It's my eyes, okay. So basically the red line is essentially the floodplain.

>> That's the 100 year floodplain?

>> Kitchen: Yes.

--

>> Yes. And if there are gas pumps they would be way out here.

>> Mayor Adler: Okay. We have two more speakers here. Yavett here Yarborough and Lauren ice.

>> My name is Yvette Yarborough and I'm with the bridges of bear creek. I'm representing myself and my husband. Unfortunately he could not be here. He's out in the field doing drill for the National Guard so unfortunately he couldn't sign up for me to get his same to I'm going to talk really fast. I also represent a number of our neighbors, most of whom have small children. I'm lucky mine have mine tonight so I get to spend the night with you guys. But I represent their interests here. We all back up to Brodie so we will have a wonderful view apparently of gas pumps and the side of an H.E.B. We have been in discussions with marbridge and with Mr.

[8:37:02 PM]

Suttle and the attorneys from Armbrust and brown and we greatly thank them for their efforts to communicate with us. I would say that we were a little disappointed that this has been going on for years apparently in discussions, but we only found out about a month and a half to two months ago, and had to scramble to figure out what was being proposed, where and when. Most of the provisions proposed by Armbrust and brown we are in agreement with. The ones in front of you on the amendment we do support. We of course do support the additional ones that were agreed to by Mr. Suttle on behalf of marbridge. We would like to see those included in the draft ordinance. We do disagree a little bit about the enforcement provisions and we do support legal looking into that further. I myself am an attorney so I have great interest in that. Most of our concerns that we have, you know, we know that this property is going to be developed. We're okay with that. That's not our main concern. We're concerned about responsible development. We really want to make sure that the neighbors -- this is a very densely populated area, so as city staff stated just a second ago, the site is small and constrained and we're talking about plopping a major retailer, complete with gas pumps, right in the middle of that small and constrained residential area. My personal master bedroom will be 500 feet from gas pumps and an H.E.B. Numerous other neighbors will be even closer. The neighborhood rancho alto that backs up to this property, they will be closer. So we do want this looked at carefully to make sure that the development is done in a responsible manner. The landscaping concerns that we had to make sure that there are buffers, so that way it does provide a little bit of a buffer for our neighbors, that is a concern. The max height, we can live with the 60 feet. We do think that's a little high, but we can live with that.

[8:39:02 PM]

Hours of operation W we do feel very strongly about that. If you can imagine trucks delivering goods and refueling gas pumps at all hours of the night 500 feet from your bedroom of. That's what I have. Please take these matters into consideration. The traffic and congestion is also a major concern. If any of you have ever driven that area, 1626 and Brodie we hear accidents happen weekly if not nightly. So adding that much traffic and congestion on those roads is a major concern as well. Thank you very much for your time and for your consideration.

>> Mayor Adler: Thank you. Lauren ice?

>> Hi, mayor and councilmembers. Thank you so much for the opportunity to speak. My name is Lauren ice I'm with save our springs and save our springs is opposed to the pca and it's currently written. As Ms. Yarborough said, the public engagement opportunity on this was lacking from the beginning. It came too late, almost two years while negotiations were already underway and the opportunity for public to contribute meaningfully at this point after staff has already agreed to the deal was really nonexistent. So for that reason I think that the process itself really needs to be revisited so that the public can play a larger role. I understand the need to keep some of the negotiations moving from the 245 determination

to a pca process. Close to the chest, but I think that there are some things in the city's vested rights ordinance that clearly have to be made public and the process has to be done in a certain order. I'm not really sure that that's happened here. And so I would urge the council to understand whether or not that the process has been appropriate and has followed proper protocol.

[8:41:02 PM]

And the things that I think that the vested rights ordinance calls for to be called for in public record is the vested rights petition which should lay out the applicant's claims, the vested rights determination, which is made by the staffers and any reconsideration. And then the fact that only after that determination is made should the pca proposal be submitted. So something I'm hearing some confusion about because the documents I received indicated that that June 2014 letter was the grandfathering application and the project consent agreement application at the same time, so I heard Mr. Lesniak say that was the determination after the determination was made but I show that it wasn't made until June 24th so I'm really confused as to how that decision, the determination was made and how the decision to move on from the determination to a pca process was made. And I think that's something that the council should understand as well. The pca ordinance actually allows for guidelines that sort of give guidance on these decisions. Those -- I can't find those guidelines. They're supposed to be adopted, published on the city's website. They're not there so I assume they don't exist, but looking at this I can see how that we would really helpful to have in this case. And I think that's something that the staff should adopt as soon as possible. I would urge y'all to really understand what this decision process looks like and what it should look like so that we're getting the best deal out of these pcas since this would be the first pca adopted I think it has a precedent setting impact here. And just in closing I think it's --

[buzzer sounds]

>> Mayor Adler: Go ahead and finish your thought.

>> I think that the terms of this pca are weak and I think that's a direct result of this negotiation that's been happening with just a few individuals and without real proper guidelines or proper protocol and public oversight.

[8:43:11 PM]

I think that the benefits they offer on the exchange tract are really nominal and compared to the entitlements that are given on the Brodie tract. And I would urge that the council definitely consider -- reconsider the provision in the ordinance that allows them up to seven years to provide the public benefits on the exchange tracts. That would be after the property -- the Brodie property is sold. It could be sold to another user at that point. I think follow-up and enforcement that that could be really difficult at that time and if we want to get the benefits of a pca we should have the benefits accrue immediately in the same way that the entitlements going to accrue immediately. So thank you for the time to speak tonight. I really appreciate it.

>> Mayor Adler: Thank you. We're back up to the dais. There's a motion to approve this with the amendments on first reading. Been moved and seconded. Any further discussion? We have a rebuttal opportunity for Mr. Suttle.

>> Thank you, mayor. I think in rebuttal I'll just say that we followed the process. If you want to fix the process later, I think that's entirely in your purview, but we followed the process for a pca to the tee. And we were actually the first one filed under this. You've only had three filed. The first one you turned down. I believe there was litigation. I believe you lost. The second one there was a pca filed and it was a mess, I think, and I think they withdrew it. This was the first one filed, last one through. And we followed the process. I'd be happy to go through any questions on the process if you would like to do that. A lot

of this stuff occurred prior to having a vesting or grandfathering process. State law doesn't require one to go through a city's grandfather process. The first step if you really don't want to work with somebody is you say I'm grandfathered, somebody says you're not, and you go to court.

[8:45:15 PM]

We're trying to not do that. So that is the process under state law. So we're hoping that you will find enough in the next week, we'd like to be back next week. We've been in the process a long time. We hope in the next week. We'll be available for any questions and I'm sure your staff will be too and hopefully you can come to the same conclusion that we came to and your staff came to that this is a fair way to avoid a squabble and you actually come out environmentally, you come out way ahead than potentially you could.

>> Mayor Adler: Okay. Ms. Pool?

>> Pool: Thanks, Mr. Suttle. When you were speaking earlier, you were talking about design standards and there was some design standards that you would be able to avoid or not have to do if you handle this in a certain way. What is it about those design standards that you're trying to avoid or that would not be at play in this application?

>> So what we want to set up is a scenario where if we are going to ask marbridge to encumber what I'll call the donor tract with strict restrictions on what can be done, that we need to be able to build the store that we think we can build on the receiving tract. And we know what we can build today in the etj. If the tract were annexed and an enthusiastic reviewer got after it they would say well, now that you're in the city you have design standards, you have to bring your building up to the street and you've got to do design placement of the building and all these things. Then we would be stuck with not knowing whether we could build the store. So what we ask is that if we do get annexed that we are under the rules today as far as building placement and those kinds of things, but we agreed to do the sidewalks under the design standards instead. We just can't be caught in the position of being annexed and not being able to get our end of the deal after already encumbering the other piece of property.

[8:47:16 PM]

>> Pool: I would just have one follow-up then to it. You heard what Ms. Yarborough said about the placement of the pumps and its proximity to her home. What thoughts do you have to mitigate that or to help with screening or -- I didn't know if that went to design standards, for example?

>> Well, actually, that probably wouldn't be affected. We're 500 feet from her house. What we have agreed to put in, if y'all choose to, is we would do the 15-foot vegetative buffer with trees 50-foot on center to screen from her side of the property.

>> Pool: And that was something that Mr. Lesniak worked up. Was that the buffer?

>> Actually, no, that was independent of the environmental side. That was as a result of our meetings with the neighbors, and we had agreed to go ahead and put that in.

>> Pool: Well, I'd be interested to know if that's sufficient. And if it isn't, I believe the neighbors should feel --

>> Thank you. You know, our concern is the 50-foot on center. That's pretty sparse. So even though there's going to be the vegetative barrier there, it's still the giant gas trucks that are coming in to refuel or refill the fuel pumps, the underground pumps. It's still in and out constant traffic that -- it's not so much once the car pulls in in the gas pump and the action of putting gas in the car that's the issue. It's the 500 feet from the house is a constant turnover of vehicles and traffic. We had discussed lately the big fad is for these talking gas pumps that like to tell you the news and run Jimmy Kimmel little clips.

[8:49:17 PM]

They have agreed to abide by the noise ordinance, but, you know, it's still -- the noise ordinance doesn't really kick in before my two-year-old goes to bed. So it's still a concern that -- even though that's going to be a vegetative barrier, the gas pumps are still a major concern to us and all of the neighbors that back up to that area. But we do appreciate the agreement and the willing to work with us on that, that Mr. Suttle has shown.

>> Pool: I wonder if there might be something more that would provide some additional protection. I think when they come to fill up the tanks they do that late at night, right?

>> Usually late at night or early in the morning from what I've seen. And going to the question about how many gas pumps there would be, I know at the station at manchaca, because that's one of the H.E.B.S that I shop at, we're talking six to eight stalls with two pumps on either side. So that's a fair number of pumps.

>> Pool: Thank you.

>> Thank you very much.

>> Mayor Adler: I think there is some interest in incorporating into the pca even those sections that you question whether they would be enforceable, just to put them in. There's been a motion and a second on first reading only. Is there any further discussion? Ms. Pool?

>> Pool: I do want to just make the point to our staff that I do want to have an executive session on Thursday.

>> Casar: And I appreciate that request because if this is going to be the first one we pass, I'm interested in learning more. Thanks for bringing that to our attention.

>> Mayor Adler: Okay. Those in favor on first reading only as stated please raise your hand? Those opposed? Those abstaining? It's unanimous on the dais with Ms. Troxclair and Ms. Gallo off. It passes on first reading with those amendments. What about the public hearing. Did we close the public hearing on this?

[8:51:21 PM]

I think it's appropriate.

>> Kitchen: I think it might be good to keep it open just because we're going to be making some changes, so unless there's objection could we just keep it open?

>> Mayor Adler: I'm fine.

>> This will be back next week? >>

>> Mayor Adler: Be back next week. The public hearing will remain open. That's all our business. This meeting stands adjourned.