

**City Council Questions and Answers for
Thursday, November 10, 2016**

These questions and answers are related to the
Austin City Council meeting that will convene at 10:00 AM on
Thursday, November 10, 2016 at Austin City Hall
301 W. Second Street, Austin, TX



Mayor Steve Adler
Mayor Pro Tem Kathie Tovo, District 9
Council Member Ora Houston, District 1
Council Member Delia Garza, District 2
Council Member Sabino "Pio" Renteria, District 3
Council Member Gregorio Casar, District 4
Council Member Ann Kitchen, District 5
Council Member Don Zimmerman, District 6
Council Member Leslie Pool, District 7
Council Member Ellen Troxclair, District 8
Council Member Sheri Gallo, District 10

The City Council Questions and Answers Report was derived from a need to provide City Council Members an opportunity to solicit clarifying information from City Departments as it relates to requests for council action. After a City Council Regular Meeting agenda has been published, Council Members will have the opportunity to ask questions of departments via the City Manager's Agenda Office. This process continues until 5:00 p.m. the Tuesday before the Council meeting. The final report is distributed at noon to City Council the Wednesday before the council meeting.

QUESTIONS FROM COUNCIL

Agenda Item # 6 and # 43: # 6: Approve second and third reading of an ordinance amending Ordinance No. 960613-J and authorizing execution of the first amendment to a settlement agreement relating to the development of property located at 6409 City Park Road (Champion Tract). # 43: C14-2015-0160 - Champions Tract # 3 - District 10 - Conduct a public hearing and approve third reading of an ordinance amending City Code Title 25 by rezoning property locally known as 6409 City Park Road (West Bull Creek Watershed) from general office-conditional overlay (GO-CO) combining district zoning to multifamily residence-moderate-high density-conditional overlay (MF-4-CO) combining district zoning. First Reading approved on June 23, 2016. Vote: 11-0. Second Reading approved on September 22, 2016. Vote: 9-0, Council Member Pool abstained; Council Member Troxclair was off the dais. Owner/Applicant: Champion Assets LTD & Champion Legacy Partners LP (Josie Ellen Champion, Alma Juanita Champion Meier, Margaret Jo Roberson Duff). Agent: Armbrust & Brown, PLLC (Richard Suttle). City Staff: Jerry Rusthoven, 512-974-3207.

QUESTION: 1) Please provide a timeline of the three Site Plan Exemption applications that were submitted on this property in January and February of this year, with staff's responses for each application. 2) Please provide an explanation of the pertinence of the Settlement Agreement to the Site Plan Exemption and related clearing activities on the property. 3) Please provide an explanation behind the Site Plan Exemption approval that occurred on the third application following two previous staff denials. 4) Following the issuance in June by the city of violation on the Champion site for modifying the creek bank and removing excess vegetation beyond the scope of the approved Site Plan Exemption, what were the findings of staff in terms of what occurred and what penalties should be assessed? 5) Following the citizen complaints in February 2016 about clearing without a permit, what were the findings by staff in terms of the violation, and what were the penalties assessed? (The complaints were filed before the Site Plan Exemption was approved.) COUNCIL MEMBER POOL'S OFFICE

ANSWER: 1) 01/05/2016: Initial submittal rejected with the following review comment from staff:

The densely vegetated areas on site where the clearing is to occur are areas to

remain undisturbed. Many of the bore sites are unbuildable areas as well, which include waterway setbacks, floodplain, and hill country roadway buffers. Need to see that a permit from Land Use Review has been issued to develop in those areas.

02/19/2016: First update submittal rejected with the following review comments from staff:

Add notes to plan: "Clearing done by hand tools only, only rubber tired machinery allowed, provide erosion controls as needed, no protected trees to be removed.

Provide tree list for all trees 8" in diameter or greater.

Per the Lake Austin Watershed Ordinance, a slope map is required at 2' contour intervals indentifying buildable and unbuildable areas to be free of clearing, boring, and testing.

Identify floodplain on plan, and no clearing, boring or testing allowed.

Demonstrate compliance with section 12-3639(a), identify drainage easement and keep free of boring clearing, and testing.

Identify faults, fractures, sinkholes and bluffs.

02/29/2016: second update addressing staff comments is submitted and exemption is approved per LDC Section 25-5-2(B)(5)

2) The Settlement Agreement requires that all applications relating to development on the property be governed by applicable ordinances, rules, and regulations in effect on 12/08/1993, including the Lake Austin Watershed Ordinance. This establishes the developable portions of the tract for which surveying and testing would be appropriate.

3) When a site plan exemption request is denied, the applicant may modify their application or provide additional information to address staff comments and resubmit for review and approval. In this case the applicant provided additional information supporting which portions of the site were developable per the Settlement Agreement, and provided additional information and notes requested by staff for approval.

4) See response for item 5.

5) Staff received the Request For Inspection on June 3, 2016. Upon inspection staff determined the clearing that was done was essentially in the same area of previous clearing at the site around 2008 according to aerial imagery. No removal of protected trees were observed and much of the vegetation in the area was and is already reestablishing itself. The creek bank was determined to be stabile even though disturbance had originally occurred. It is staff's determination that best practice is to allow the creek bank to reestablish vegetation even further in lieu of bringing in additional equipment which would cause further disturbance and potentially undo bank stabilization. Reinspection fees were assessed.

Agenda Item # 11: Authorize a negotiation and execution of an agreement with Aero Solutions LLC, for professional services related to licensing right-of-way and city property for small cell antenna, for an amount not to exceed \$205,200.

QUESTION: 1) Can you tell US if the consultant purchasing requested was ever noted in discussions during the staff presentations or reports to Boards & Commissions or to Council? 2) What are the anticipated annual fees to be collected from carriers? 3) Why is this item coming from ATD budget and not AE or CTM? COUNCIL MEMBER GALLO'S OFFICE

ANSWER: 1) The consultant contract was not mentioned; however the items that they are to work on were identified as next step recommendations, mentioned in the consultant report and at the briefing to Council on October 18th. 2) If the 4 Carriers each attach 25 antennas (total of 100 attachments) to Traffic Signal Poles, we anticipate approximately \$250,000 annually, for the first phase roll out. We do not have an estimate for the annual right of way rental fee for fiber installed because we've not yet seen plans that detail utility footages, whether they're installing new conduit or utilizing existing conduit. 3) Revenue generated from the antenna connection to Traffic Signal Poles will be applied to traffic signal maintenance and enhancements. These funds are a much-needed resource for ATD to continue its preventative maintenance efforts on its wide network of traffic signals.

Agenda Item # 71: Conduct a public hearing and consider second and third readings of an ordinance approving a Project Consent Agreement 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 commercial development of a 12.08 acre tract of land located at 12501 Hewitt Lane in the City's Desired Development Zone.

QUESTION: 1) During the hearing, staff noted that after the applicant submitted new evidence and legal analysis, the Chapter 245 team which assesses grandfathering claims again denied the claim. Who else on the city staff reviewed the "additional evidence" and determined that vested rights are reasonably likely to exist for the project?

2) Staff indicates in the RCA that the original permit for this project is a "residential project for which they have established grandfathering rights"—yet the current proposal is for a commercial project. Why doesn't this constitute a "new project" as per the language below in our vesting ordinance? :25-1-542 (A) (1) of the code states: An application is not entitled to development rights if it is unrelated or inconsistent with the original project or if the original project has been completed, changed, or expired.

3) Regarding the vesting ordinance in general, if a property owner comes in with an application for a residential project and then subsequently comes back with a request for a commercial project, what is the proscribed process?

4) Please provide specific examples that include staff decisions as to whether a project was determined to be a continuation of an existing project.

5) Please explain how a vacation of a plat is considered a continuation in a

series of permits, as the applicant has asserted in this instance.


6) Is there a fee for an application for a Project Consent Agreement? If so, has the applicant paid the required fees for the PCA?


7) Has our staff confirmed that the SER for the tract required for a change of use was completed?

MAYOR PRO TEM TOVO'S OFFICE

ANSWER: These responses will be addressed in executive session.

END OF REPORT

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