

## City Council Meeting Transcripts - 2/28/2013

>> testing 1, 2, 3, 4,  
[03:57:23]

>> testing 1, 2, 3, cdm.,  
[04:00:47]

>> Mayor leffingwell: Good morning, I am austin mayor, lee leffingwell and we will begin with the invitation from chaplain david smith from the apd's chaplaincy program. Welcome. Please rise.

>> Let us pray. Sovereign lord, I thank you for these men and women elected to serve the citizens of austin, texas. As they come together today, unite them in purpose, grant them passion for justice, enthuse them with hope. We are humbled and grateful that you care about the decisions that affect our lives so we call upon you, almighty god, to be present with us here today and we know you will be because you have said you will never leave us or forsake us. Prince of peace, enable this body to deliberate and debate with respect and regard for one another. Bless this place with your peace today unlike any day before. On their behalf, I intrigue you for wisdom, remembering you promise to give wisdom to those who is in faith. They they any discernment, the ability to choose from the variety of good alternatives. May they, too, have your protection in ensuring what they decide here is for all of the good of the citizens of our city. We ask for confidence because we call on your on our god, our guiding spirit, our gracious spirit. Thank you. Amen.

>> Amen.

>> Thank you, pastor. Please be seated. I will call this meeting of the austin city council to order, on thursday, february 28th, 2013. The time is 10:02 a.M. Meeting in austin city chambers, austin city texas, and we begin with the corrections and changes to today's agenda. They are as follows, item number 6 is withdrawn. Item number 7 is postponed to march 7, 2013. On item number 13, a couple of changes. In the first sentence, add the phrase "after \$2 million to -- add the phrase 2013, travis elk streak lp, formerly known as.  
[04:03:13]

-- Elk creek, formerly known as and the last sentenced a after the words tax credits, the phrase, 2013, travis oak creek lp and that's it. Item 36, delete the word "the" preceding highland mall so it should say including highland mall instead of the highland mall. Glad we caught that one. [Laughter] the consent agenda for today is items 1 through 45. I will read into the record item number 333 which is appointments and waivers on our board commissions, it will remain on on consent on commissions affairs,. Gary linear. And 18, 40, by council member morrison, item 37, pulled by council member tovo, item 38 and 39 pulled by mayor leffingwell. Item 35 is pulled off consent due to speakers and those are all of the items i have pulled off the consent agenda. So I will entertain a motion for approval. Mayor pro tem cole moves approval. Second by council member spelman. Show me, mayor leffingwell, voting no, on item number 33. All in favor say aye. Aye. Opposed say no. Passes on a vote of 7-0. Without objection, council, we will go right to item number 37, which was pulled by council member tovo and we have one citizen waiting to

speak. Hail garwood. Haileygarwood. And

-- okay. So

-- you see the microphone there inn front of you. Be sure to speak in the microphone and welcome, by the way. This

-- obviously these are girl scouts and first, i want to ask, did you bring any cookies? Because I would like to buy some before you leave here?

[04:06:07]

[Laughter] especially those peanut butter ones. [Laughter] okay. Go ahead. You have 3 minutes.

>> We are troop 792 and we would like you to wait

-- waive the cs 60-dollar fees in brentwood park. We are working on an award which is posor pause which would be educating the public on why they should consider adopting injured, special needs or elderly dogs. We will be asking for donations in exchange for gifts and making crafts and we will have austinpets alive volunteers come around and walk some dogs around, and if you want to

-- if you are interested in adopting them, we will be having austin petsalive officials there to tell you about them. Thank you.

>> Thank you, well done, hailey. And by the way, understand y'all get a mer badge for doing this, participating in the public process?

>> We get a bronze award which is higher than a merit badge. [Laughter]

>> well, I am all for that. [Laughter]

>> yes. I think council member tovo wanted to say a few words.

>> I actually had a few questions. That sounds like a great event and I wondered if you could tell us a little bit about the hours that the event would be held on april 20th.

>> We aren't sure yet, but we were thinking in the morning because the dogs will get hot.

>> That sound like a good plan.

>> This isn't final so we are not sure.

>> Okay. So you will let the public know about that. And it will be dogs exclusively, right?

>> We will only have dogs there, but we also be collecting money for some disabled cats, too.

[04:08:09]

>> Tovo: Great. And I wonder if you can tell us a little bit about the fundraising that your troop does regularly.

>> Earlier this year, we made a hot chocolate mix for a volunteer health clinic and we gave them out to people who probably couldn't afford christmas.

>> Tovo: Very neat and how many girls are in your troop?

>> We have 9.

>> Tovo: And are you all students at brentwood elementary?

>> Yes.

>> Tovo: Very good. Is there anything anyone else wants to add about the program that you didn't get a chance to say in your 3 minutes?

>> I kind of wanted to add that

-- why I wanted you to waive the fee. I really think we should waive the fee because we were doing something for another community

-- community, and I was wondering what it did cost y'all for all of the things that we are doing.

>> Tovo: In terms of the park? I think that's a good question. We charge park fees to help

maintain the park and the structures and the playground equipment that's in the park, but I think you make a good argument, that you are doing something for the community and so we should consider waiving that fee. Would it be a hardship for your troop to pay the fee?

>> We've spent a lot of money paying for other service projects and we also have paid for our camps, where we learn new skills, so if we have the many

-- we have the money but it would be

-- it would be kind

-- we are not sure if we could completely pay for it with just what we've earned.

>> Tovo: I see.

>> Mayor leffingwell: Okay. Council member morrison.

>> Morrison: Could you remind me what your troop number is so I want to sent a tweet where you are. 792.

[04:10:14]

>> Morrison:792 and you are based on brentwood?

>> Yes.

>> Morrison: Thanks for your work. Sounds like a great project.

>> Mayor leffingwell: Could I

-- I don't want to put you on the spot here, but could each one of you just step to the microphone and gives your name, that's all you have to do, all right.

>> My name is sarah slayton.

>> Hailey garwood.

>> Ariana estrada.

>> Ashia.

>> You don't have to if you don't want to.

>> This is tyley.

>> I am leah beck.

>> I am cameron borman.

>> I am lupita hamalio.

>> Mayor leffingwell: Okay. Thank you very much. Council member tovo. [Applause]

>> Tovo: I wanted to thank troop 792 from brentwood elementary here today to argue their case, that they should receive a fee waiver for the city. I think they offered

-- they prepared a formal request and provided good information about the event and the reasons why we should consider that and so, mayor, I move approval. Motion to approve by council member tovo. Second by council member morrison. All those in favor, say "aye." Aye. Opposed say no. Congratulations. It passes on a vote of 7-0. [Applause] [indiscernible] [laughter]

[04:12:17]

>> mayor leffingwell: So before we go to the next item, I need to read into the record for information for people who are planning the rest of their day, our time certain items at 10:30

-- 10:30 or after, we will have briefings on

-- on austin energy quarterly briefing, staff presentation regarding a proposal to create an economic development program for national instruments corporation, and a briefing on the parking reduction incentive pilot program, 12, noon, our general citizens communication. At 2:00, we will take up our zoning matters. At 4:00, public hearings and 5:30 we will have live music and proclamations. Musician for today is o. Rick ellison and tribe. Let's see if we can get a

couple of items in before 10:30. First we also need to hear on citizens communication, we have one speaker, and that is clay dafoe. Is clay dafoe here? Is not here. So ... Go to item number 12, which is pulled off consent by mayor pro tem cole. There is one speaker signed up for this item and it looks as though they are not here. Mayor pro tem.

>> Cole: Okay. I have a question of spencer, I believe. Of betty. Bettycy, I know

-- betsy, i know we received this grant from the federal government and we have been working hard on everything with the neighbors and we are particularly concerned about community outreach and I am wondering if you can give us an update on how that's going.

[04:14:22]

>> Yes, bet betsy spend ter and we worked the last few months on the colony parks association on the grant and specifically on this initiative. The neighborhood has been instrumental in this particular partnership and the recommendation for this interlocal agreement and brought forth the partners of the acc and u.T. To be able to engage the community at a much deeper level through this interlocal agreement that is before you today. We all feel very successful about that partnership and the work we have done.

>> Cole: Have you also met with acc and u.T.?

>> Yes, ma'am.

>> Cole: Thank you, ma'am. Move approval.

>> Mayor leffingwell: Motion to approve by mayor pro tem cole. Second by council member spelman. All those in favor, say "aye." Aye. Opposed say no. That passes on a vote of 7-0. We may be able to get in item number 18. If there is no objection, we will go directly to that item. We do have two speakers signed up. Bill bunch. Bill bunch is not here.

>> [Indiscernible]

>> roy

--

>> [indiscernible]

>> mayor, city council.

>> Mayor leffingwell: You have 3 minutes.

>> Thank you, mayor, members of the council. Bill bunch here on behalf of save our springs alliance. The letter I am passing out to you is a joint letter from myself and three other lawyers with significant experience in chapter 245 grandfathering issues and the environment. Marries perales who serves on the environmental board and brad young and backwell and we ask you to postpone this item and send it back, at least to the planning commission, nor their input on a normal process for an ordinance. We don't see any basis for an emergency, t bypass the normal process. Even if there is any kind of an emergency on a specific project, it should be handled as that specific project. It shouldn't be this massive, sweeping change to our grandfathering procedures and ordinances that have been placed for years on such a rush basis. We are completely aware as the letter said of the ag opinion, stating that we need to address, you know, our ordinance issues. But there is lots of different ways to address that, and that's just one opinion. It's not binding on the courts. The ag opinions are often in conflictith ultimate court decisions and even if you accept it on its face, there are other approaches to deal with this issue that are less drastic and far reaching. What you have on your table would essentially give away, for lit

-- literally for decades and essentially irreversible control over matters that address water quality, growth management, and public healt safety. This is not something that should be done hastily. It

really isn't. I suspect that

-- that there is one or two developers out there threatening to sue you. That happens all the time. How many are on the books right now? That's not a reason to act so hastily. I also point out in chapter 245 itself, it protects cities on these issues. It says the only remedy for a city, a lawsuit raising chapter 245 issues is mandamus, declaratory relief or injunction and so you are at no risk of any sort of attorneys fees or damages of any kind. There is

-- there is no basis for an emergency to, to declare an emergency and to take this kind of hasty action that literally will tie your hands forever. So all we are asking, take it two or three more weeks, let us provide you some additional input, some options, and

-- and some of the

-- further evaluation where we really understand what are the implications for sitting where we are or taking other course of action? Sheriffs will ask for our postponement.

[04:19:34]

[Indiscernible] [buzzer alarming]

>> Cole: I have a question.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: Mr. Bill Bunch, I know you are asking for more time and you read the agency opinion and so I am just wondering is there any particular areas you are focused on, project rights, duration, rights, or is it just everything?

>> Well, the proposal before you basically sweeps everything off the table and sort of inserts a sentence out of the state statute, and we just think you do not have to go

-- even if you need to move somewhere, you don't have to go that far.

>> Cole: You want more time to educate us, is that what you are asking?

>> Yes, and to explore the options. These are tricky issues because you are dealing with both permits, projects. The statute deals with those a little bit differently. Our own ordinances, you know, deal with those issues somewhat differently. And I just think that we ought to be given an opportunity to provide you more educated outcome. I only heard about this, you know, a few days ago and I just think there is not an

-- there is no

-- nothing in the backup that explains why there is an emergency that would suggest that you really have to address this today. And I don't think that there is.

>> Thank you.

>> Thank you.

>> Mayor Leffingwell: Roy wayly.

>> Howdy, I am Roy Wayly, the conversion chair of the Austin regional group of the Sierra Club and I thought I was going to be late getting in here because I was outside having an emergency conversation about the south by southwest lineup. I figure if we are going to redefine emergency, I will, also. I agree with Mr. Bunch, there is no emergency here. It's a

-- it's another example of Austin being willing or the city council, potentially, I hope not, being willing to sweep decades of work away in one fell swoop. We put all of this time into this and now, because we hear a little rumble at the other end of Congress Avenue, we are ready to sweep away decades of work that has happened here. And we are asking for a two-week delay. Austin Sierra Club would like to see this postponed for two weeks, for us to have an opportunity to look into this so that you have an opportunity, so that staff has, so that we can have this conversation, and we do ask that it be taken back to planning commission. Ideally, go through the whole

process before we do anything like this, but at a minimum, that it go back to planning commission, or not go back to, but just go to planning commission. And that we have that input. You

-- you all have appointed your commissioners. You all have respect for what they know, for their information, their opinion. Let's get that opinion. You use that information all the time to form the basis for your votes. Let's do this. This is just reaching, that I don't think it should be done on a perceived emergency. I still don't see the emergency on this. I hope that you will take your time and honor the work of not just all the citizens of austin but the previous councils, all of the staff time that has gone into this and let's work to define

-- to find the solution. As mr. Bunch said, you know, we dealt with that just recently on a case, and so we ask for us to have a little bit of time. I certainly hop you will do that. Thank you very much.

[04:23:44]

>> Mayor leffingwell: I had a couple of other speakers signed up. Ronnie reeferseed is for it.

>> [Indiscernible]

>> [indiscernible]

>> oh, okay.

>> You have 3 minutes.

>> Okay. On item 18, I am sorry to say I don't have a lot of knowledge to share. I am actually coming with an open hand asking for information, and it was just a bit confusing to me and maybe if there is any backup material to this, maybe you can point me to where that is so I can check that out, but like right now, can you

-- maybe I am just having a hard time reading it, but I

-- it's kind of gobbley gook levels to me right now, but can you

-- for one, declaring an emergency? Why

-- it seems like something to ask about. What is the potential emergency and why do we have to

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>> mayor leffingwell: Emergency is just a technical term that enables the ordinance to go into effect immediately instead of the normal waiting time.

>> Oh, okay, and the normal waiting time on these resolutions or something is cumbersome, or how long is it?

>> Mayor leffingwell: Ten days.

>> Ten days. So this one just needed to happen

-- that's how you accomplish that, by declaring an emergency?

[04:25:45]

>> Mayor leffingwell: Correct.

>> That's a learning experience, thank you, sir. And the project dormancy. What

-- again, obviously iknow what project duration is but project dormancy, is with when you

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>> mayor leffingwell: When you get a site plan approved, it expires in a certain amount of time,

if you haven't begun work for other criteria, also.

>> Okay. Thank you, I didn't mean to waste your time. Thank you for answering the questions. Thank you.

>> >>Professor: All right. Mikel meade.

>> Thank you, mayor, mayor and council members. I am with brown mccarroll around actually here speak on behalf of the real estate council of austin. This is a critical issue for us and whereas we do appreciate everyone's request for additional time, in this case, I think this is asking for a delay just for the sake of delay. Your lawyers answer your staff have looked extensively at this issue. It is not a new issue. It has been going on for two years or more with your lawyers and your staff looking at it, and it is an issue. The code on your books is affecting dozens of projects that are in the queue, having to go through complicated managed growth procedures that waste your time and cost the applicants a lot of staff and money and all of your attorneys are attempting to do is make your lawyer consistent with the state law. So we would urge you to please not delay this any further. It has taken long enough as it is to get to this point. I think the issue has been looked at extensively. It is not a new issue to any of us and I don't see anything that would -- we can

-- any of the parties could accomplish in a two-week or more delay. Thank you.

>> Mayor leffingwell: Thank you. I would like

-- is greg guernsey out there? There he is. You are not in your usual place, so ... Can you give us a brief explanation of the need for passing this ordinance in the very near future, as in an emergency passage, which would make it effective immediately? Can you give us a feel for that?  
[04:28:03]

>> Guernsey: Yes, guernsey, director of planning and review development. The item that you have before you would actually bring our ordinance in alignment with state law. Every week, my department receives applications that come before we call the 245 committee, and it's my job and my responsibility to determine vesting of a project. As these projects come in, we look at the applications that are submitted, that are attached to their project. They may be subdivision plats, site plan applications, requests for water utility extensions and those would form the basis of a series of permits for whatever this project or endeavor would be. The difficulty for me, in trying to honor what our ordinances have established, and also to look at the projects as they come through, is that based partly on the attorney general opinion, based partly on my own opinion and also discussions with our law department, it looks like we are not in alignment with the state laws of texas, with regards to whether a project is actually continuing or not under that section of the local government code 245. To deny a project under project duration would mean that a site plan that may have been submitted over a 3 year period in our drinking water protection zone or five years within the desired development zone would end, regardless of the project's construction. For instance, you may have a situation where someone has submitted a subdivision request, got that approved, actually start building the project out, around the project may have one or more phases, and then even though permits are being pulled, infrastructure is going in, roads, sidewalks, drainage, water quality ponds are constructed, I would be put in a position by our ordinance to say the project has actually ended, even though construction -- construction is actually actively taking place out in the field. There is an alternative that developers have, property owners have. They have the right to use what is called a managed

growth agreement, and you recently approved two of those in regards to those projects and some of the things I've just said, are pretty much in alignment with one of those projects that has come through. But I would be bringing those, I think, repeatedly before you, because I would have no choice but to really deny vesting based on our ordinance and bring that decision for you to make each time in the future, and based on what's happening actually in field conditions, we are probably seeing more of those because our financial situation is better now than it was in 2007, '8, '9, and so these projects are ending their life in our process. Again, that three years, in the waterprotection zone and five years in the development zone and there is an ability for for me to grant administrative extension for some of those, particularly in the development zone for an additional year, but beyond that, I don't have the power to grant any further extensions, even those projects may be under construction.

[04:31:46]

>> Mayor leffingwell: So the intent is just to repeal our existing ordinance and then to begin the process of developing a new one that potentially would be more in align with state law?

>> Guernsey: This isn't just the end of the story. I mean, staff would actually work with our law department and craft language that we feel that would address both of the concerns of council of our citizens with regards to project vesting and that would be ongoing from this point.

>> Mayor leffingwell: But if concerns that have been addressed here by a couple of speakers are that we are doing away with years of work and a lot of experience in project duration, that's all by the wayside. That's not quite true. Right now what we are doing is eliminating the barrier to completing projects while we go about recrafting an ordinance that would do as much as we can towards the same end as our existing project duration?

>> Guernsey: Yes, mayor, that is correct. And each project is unique. It is not a blanket approval or grandfathering for every project. Each project comes in. It goes through review. There is actually an appeal process if the property owner is in disagreement with the decision that i will ultimately make in that case. But it isn't simply just saying that each one can go forward.

>> Mayor leffingwell: Can you

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>> Guernsey: The project ends for various reasons, other than project duration. It may be a change of project. It. They may have actually completed a project. So there are other reasons why projects may end, other than just project duration. It becomes more difficult, i think, when it is just project duration is the only reason for the denial for vesting.

>> Mayor leffingwell: But in the meantime, could you describe any potential risk to the city of continuing the status quo while we go about the business of reconstructing a new ordinance?

[04:33:54]

>> Guernsey: I think I would rather defer to our law department, if you'd like to go into executive session about potential litigation over the matter. I don't feel comfortable probably going into that at this time.

>> Mayor leffingwell: Well, but there are projects that are under construction that would have to stop right now? Is that right?

>> Guernsey: There are projects that may be before me that are for review for consideration that I would say they've ceased to be able to go forward and others that are probably -- probably looking on today or the attorney's general opinion and waiting to see what happens before they continue.

>> Mayor leffingwell: Any other questions?

>> Riley: Mayor.

>> Mayor leffingwell: Council member riley.

>> Riley: Greg, you made references to our going about the business of reconstructing a new ordinance that would replace the one that's on the table today. Can you just tell us where we are on that and how you see that process proceeding?

>> Guernsey: Well, there is a provision in our ordinance right now that -- or in the proposed ordinance that would actually allow us that if a project does not make progress within five years after the year 2004, that there is an ability, then, to say that that project has ceased. Just because you file an application doesn't mean that a project is good forever. But we are actually going to speak with other cities and actually visit some other cities and staff in other cities to see how they are handling it. I don't have any particulars I could probably share with you at this time, but i think the concern is the number of applications just keep coming every week. That's more of the concern at the moment but this is actually a starting point for me to then move forward and look at other possibilities that we could have that are in align with state law and we could feel comfortable defending.

>> Riley: I have heard some interest

-- from a number of people participating in consideration of this issue, and there has been a suggestion that we send this back to the planning commission. We have heard from at least one member of the environmental board. To the extent that there are folks out there in the private sector who are interested in participating in a conversation about a new ordinance, what would you suggest would be an appropriate venue for them to engage in any -- in discussions along those lines? Would you picture a codes and ordinances committee at the planning commission working on an ordinance? Would you picture the environmental board considering an ordinance? Where would the public be able to -- to engage on this issue?

[04:36:36]

>> Guernsey: I will be happy to meet with those that certainly have a concern. If someone -- if you desire

-- take amendments to the environmental board and planning commission, I am more than happy to go before those boards with

-- with listening to their suggestions or bring amendments before them for their consideration before i bring them back to you.

>> Riley: What sort of time frame do you have in mind?

>> Guernsey: Probably have to speak more with our law department to get a little bit better direction on how far an ordinance amendment could go and still stay under state law and feel comfortable that we could defend any decision that we make and I present to you in a recommendation for your consideration in the future.

>> Riley: Okay. Thanks.

>> Mayor leffingwell: Council member spelman.

>> Spelman: Thank you, mayor. Greg, you mentioned a couple of minutes ago that every week you get applications for subdivision permits or site plans or something that falls under chapter 245 or macon ceivably fall under chapter 245

-- may conceive approximately fall under chapter 245 and you have to go under the chapter subcommittee to see where they are. About how many new applications do you receive, say per week, that would be affected by this ordinance? Least two or three a week that we would have at any given meeting that we have. In those, it's rough for me to say, because as I said before, the decisions that are made aren't just under project duration. They could be under dormancy which is also mentioned in this ordinance. The project has already ended because they can already constructed something, or there is a change in project, but i think there are projects that you recently review that my staff recommended in two different mgas that have come before you. Those are the two that are probably the more recent ones that are actively moving forward and the only reason I would have a decision

-- the only decision I could really arrive at would be to deny the project duration and that's the one you had two weeks ago and I think two weeks before that.

[04:38:50]

>> Spelman: It seems like there is three groups of projects we are dealing with here. There is a group of projects which, for example, there has been no activity since 2004. Just paper projects and whether this ordinance passed or not, they

-- you could declare them extinct. You've got some other projects which if this ordinance passes, this ordinance didn't pass, it still would be ongoing projects under our current ordinance, it would still be ongoing and there is gray area of projects in the middle which this ordinance would clearly affect. If the ordinance passed, they would still be ongoing, if it didn't pass, you would have to develop an mga to keep them going or find some other instrument. It seems to me if we had the two mgas we have been dealing with the last couple of years and two mgas coming before us, that a delay in our consideration of the best response to the attorney general opinion of a couple of weeks or a month is probably not going to be time critical for a large number of projects. Now, this is just an assumption on my part based on what you just told me. So help me with that. Is that accurate?

>> Guernsey: I think there are people that are waiting to see

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>> Spelman: Sure.

>> Guernsey: On the sidelines what council will do with the two mgas that you already have that have come before you. I know that there are other applications that would probably be filed if you were certainly to make a decision today on this ordinance that would probably be filed tomorrow.

>> Spelman: Sure.

>> Guernsey: Because they feel that our ordinance

-- they couldn't comply with the ordinance but they could certainly comply with the way the state law is. So it's difficult for me to kind of give you an idea of what might happen tomorrow. If we did delay, there could be action taken against the city in litigation. That certainly happens. I think the reason why, partly that I am standing before you right now, is litigation that the city did lose

last year in a case called harper park, which is a 245 decision, that came up and then staff actually myself and the law department, my 245 team worked on other tools I had in my tool box, basically under the code that I could use to see if a project is vested or not. And I had been using those tools, project dormancy, as it's written right now, but there is an inherent conflict, as I said before, within

-- even under project dormancy in state law. But as far as the applications that would come in, if you did delay, i think it could result in some litigation. I think others would wait and see what you are going to do with that application.

[04:41:37]

>> Spelman: Sure.

>> Guernsey: I mean, with this ordinance in the coming weeks. I think if a delay was too long, there may be actions that may be taken by others beyond this council chamber at another legislative body elsewhere in texas.

>> Spelman: Not far from here.

>> Guernsey: Not far from here. And that's my opinion.

>> Spelman: I understand the issue, and I understand that if

-- if we gave a signal that we are going to delay this until 2014 or until november or something ridiculous like that we are sending a pretty clear signal to the legislature that you may want to do something about this and put this crazy austin city council back in line. I personally don't -- i can't speak for anybody else

-- I don't have a need to delay this too much but i do feel a need to delay this for a little bit for the following specific reason. As far as I can tell this law was drafted by our own legal staff working with you and your planning staff. But I don't know who else has seen this, and this is something which is affecting laws which have been created over a long period of time, at least 25 or 30 years in the city of austin in a very open public process involving, for example, mr. Wayly, mr. Bunch and ms. Meade. It seems to me if we are going to be intervening in a fairly important way in an ongoing series of public conversations, we probably ought to have a public conversation before we intervene and having at least an airing of the issues with the planning commission would give us an opportunity for everybody to talk about what is the right way to respond to the state law, and even if there is no other way to respond to the state law than this, at least everybody would have had a chance to come to terms with that, to get used to that idea and to try out the alternatives. So it seems to me that there is a valid public purpose in our going forward for a short period of time, just to try it out and see whether there is any other alternative here. If we wanted to have that public hearing, say, at the planning commission meeting, what is the shortest amount of time that that could happen and then come back to us?

[04:43:52]

>> Guernsey: I could have an item on your agenda for their consideration for their first meeting in march, which would be the second tuesday of the month.

>> Spelman: Second tuesday would be the 12th of march, and, therefore, the soonest it could come back to us

-- we don't have a meeting on the 14th.

>> Guernsey: And be back on 21st.

>> Spelman: On the 21st. So if we delay this only until the 21st, no later, we can ensure the city council

-- the planning commission would have had a chance to see this and all of the interested parties

-- and I know there is a lot of interested parties in this town

-- would have a chance to talk about what is the right way to respond to this, suggest tweaks and alternatives to it and then we have the wisdom and benefit of that hearing in a few weeks. Mayor, I would like to postpone action until the 21st of march and have the planning commission have that at the public hearing.

>> Mayor leffingwell: Motion by council member spelman to postponely the 21st.

>> Cole: Second.

>> Mayor leffingwell: Second by mayor pro tem. I am going to oppose that postponement. Two weeks is mentioned but we don't have a meeting then, so it's three weeks, for the reasons previously stated. We are going to come back here on the 21st and basically do what we know we have to do today and start this process

-- in the meantime, the process of crafting a new ordinance could have already been underway and that's the one that needs to have the public process involved, so I think

-- there is a half probability of considerable hardship by waiting three weeks so I won't support the postponement.

>> Cole: I have a question.>> Mayor leffingwell: Mayor pro tem.

>> Cole: Mr. Guernsey, do you know when the attorney general opinion came out?

>> Guernsey: December 10th

-- december 10th.

>> Cole: So we are looking at about a couple of months, maybe?

>> Guernsey: That's correct.

>> Cole: Okay, and the reason I ask that question is because we know that these laws have been on the books, as I think council member spelman said for 25 years and so for our community to fully digest it, both the environmental community and the developer community, I think that we should give them time to do that and a three-week period is

-- is sufficient, and we will hear from planning commission, their comments and actually kind of vet it and I do believe that the legislature will understand thatur community wants to have some input so I am supporting that.

[04:46:15]

>> Mayor leffingwell: So in the meantime, mr. Guernsey with a three-week delay, would there be projects that would be significantly affected in that time period?

>> Guernsey: As projects come in, I have a certain obligation to give a response on those, projects and make a decision. I will make the decision, although they can certainly come back and appeal those decisions back to me, but i have some that are probably awaiting my decision right now that have already been appealed, where I will probably have to come back and give them a decision before you come back on the 21st, so some will be affected. Others will not. But they have the ability to come back. I do have some that I will have to make a decision before you come back.

>> Mayor leffingwell: Council member tovo.

>> Tovo: A couple of quick questions, greg. They would always have the option of pursuing a

managed growth agreement as well, as the last two projects?

>> Guernsey: They do. That is always an option. When the state legislation went away back in the late '90s, council approved our own version of vesting ordinances and with that came the managed growth agreement and they would have that option today.

>> Tovo: How many managed growth agreements have come before couple in the last couple of years?

>> Guernsey: I would say about a dozen or so.

>> Tovo: So it's not a

--

>> Guernsey: It is not an overwhelming number.

>> Tovo: Thanks and I would suggest I think it is a great idea to postpone it and allow our land use commission to review it and if there is an opportunity for the ordinance ski to review it before that, or if they need a small meeting. I don't know if it is possible. I don't have it as direction. Just a suggestion.

>> Mayor leffingwell: Any other comments? Motion is to post upon until march 21st. All those in favor, say "aye." Opposed say no. No, passes on a vote of 6-1. Sorry,. Passes on a vote of 5-2. Council member martinez and myself voting no. Okay. Go to our 10:30 briefings. If there is no objection council, we will first go to briefing on our

-- the proposed

-- proposal to create an economic development program for national instruments corporation.

[04:49:15]

>> Council, kevin johns, director of economic growth redevelopment services. I am going to give a brief update on the overall economic incentive process that we are going through before I turn this over to ben ramirez who will make the presentation as our interim economic program manager, because even though we have been working on the incentive analysis, this is a project that's come up in the interim, so just as a reminder, the special council committee on economic incentives began their meetings in june and ended in november. At the conclusion, er solis was attached with additional surveys and studies that included the first survey of all of the existing incentive programs and their hiring practices. That is mostly complete. The second is a survey of best practices around the united states. We are working with the international economic development council. We have gotten some feedback from them generically about which are the best and worst programs and we are following up with them. And then lastly, we have been tasked with investigating a collateral pool or a prompt pay program that meeting with stakeholders and some of the stakeholder meetings are now starting to materialize. I will report back to you on a regular basis, but our hope is, still, that we can move this to you within the next 60 days. So I just wanted to bring you up to speed, since we do have an incentive here today that we are very excited about. And we did make a very strong effort, and because of the high quality of the company, we feel like we've got their full corporation in trying to meet the issues that you have raised in terms of the quality of community's values. The presentation today is going to be made by ben ramirez who you are familiar with as our international economic development manager. Ben's experience is pretty extensive in economic development. He is also

-- he has also worked with presidents of companies, ambassadors, the king of cameroon who will be here in june and trade commissions and he was chief of staff of the michigan senate and a legal background and he has done a great job of for us. I will turn it over to ben who will make the presentation and any questions you have, we will tag team them or ben will answer them. So

thank you very much.  
[04:52:03]

>> Thank you, kevin. Good morning, ben ramirez, acting economic development manager for the city. The purpose of today's presentation is to present an overview of national instruments and the economic development proposal, the review of the economic development matrix criteria and score, a summary of the webloci fiscal impact analysis for this project. A combination of the anticipated benefits and expectations which will be established by this economic development agreement, and, finally, a proposed timeline for the future city council action. National instruments is a local success story in the global high-tech industry. It was established in 1976 with the headquarters here in austin, texas. National instruments designs, manufactures and sells measurement and automation projects for general, commercial, industrial and scientific applications worldwide. It's a growing company with 14 u.S. And 45 global locations, employing approximately 6,850 individuals. For the last 14 consecutive years, national instruments has been recognize by fortune magazine as one of the top 100 companies to work for. The economic development proposal criteria used for this particular project includes the economic development matrix, which is a scoring tool that assesses firms using the following five categories of criteria. The overall economic and fiscal impact, linkages to the local economy, infrastructure impact, character of jobs and labor force practices, quality of life, and cultural vitality. Also, a web loci fiscal analysis was done on this particular project. As you know, they hire a tool that is recognized by over 300 chambers of commerce and it was developed in 1999 by georgia tech university. Turning to the economic development matrix in particular, national instruments scored 90 points of potential 100 for this particular project. This score reflects the  
[04:54:52]

following: National instruments will enhance its austin campus through the new construction of a 300,000 square foot research and development facility on 8 and a half acres in the desired development zone on north mopac. There is no disproportionate community infrastructure impact, as this campus is presently being served. This 80 million-dollar investment will result in the creation of 1,000 new full-time engineering and support jobs I austin over the next 10 years. National instruments offers a comprehensive benefits package, which includes health insurance, same sex partner benefits, tuition reimbursement, and career advancement opportunities. National instruments contributes resources to science and engineering education programs that have benefited over 3,500 central texas youth. Looking at the financial benefits and costs of this particular project, the webloci fiscal impact analysis represents only direct benefits and costs of the investment and jobs created by this project. The total direct benefits over a 10 year period equal to \$25.6 million. The total net costs over that 10-year period is \$18 million, which includes a performance based economic development grant estimated at \$1,667,575. To clarify, the recommended economic development grant is equal to 50% of the actual incremental real and personal property taxes generated by this project over the 10-year period. National instruments has been an active community partner in the past and through this agreement, we intend to obtain a total net benefit for the city of \$7.6 million. Turning to one example of national instruments community participation, this slide contains excerpt of a letter written by dr. James truchard, ceo and cofounder of national instruments. This excerpt summarizes national instruments

commitments to engage our youth in science and engineering education. This sentiment is held by national instruments' employees who also participate in stem programming asentors with -- with additional resources as well. In fact, just last month, dr. Truchard pledged a personal 10 million-dollar donation to the university of texas to help pay for the planned engineering and education research center on the campus. Last year, national instruments' collaboration included participation in the 8 community outreach programs you see listed here. The austin pre-freshman engineering program and saturday science stem program, tillitson, girl cart program, break through program, educate texas program, boys and girls program, as well as the austin tech reach program so children age 6 from a broad spectrum of central texas are engaged in learning the possibility of achieving a job at highly sought afields. The first robotics program, in particular, involves over 60 youth teams of third to fifth graders from aisd, del valle aisd, pflugerville aisd schools as many others and here, you can see we have photos of the young students. Over 115 national instruments' employees assist over 500 children participate -- participants in this program. The bottom rule of photographs in particular is from the recently held first robotics program that was backed on february the second. Now, looking at the specifics for the contractual obligations pursuant to this agreement, national instruments promises to retain the existing 2,440 full-time jobs at its austin campus. They will invest \$47 million in real property improvements and \$33 million in business personal property. National instruments will create 1,000 new full-time jobs with an average annual wage of \$72,223. No one at the facility or construction or employed will earn less than \$11 an hour. The company promises to work with local organizations in employment recruitment efforts. The national instruments has an affirmative action employment policy with their current austin workforce representing over 60 national origins. They will also continue to assist local stem outreach efforts, including providing services to at least 1,000 students each year. Thereby, adding to the pipeline for new hires in that particular stem area. National instruments will abide by supplier diversity policy. They will comply with the city's ordinance for minority owned and women owned businesses in the design and construction of its new 80 million-dollar facility, and national instruments will conduct commercially reasonable efforts to obtain leed certification for the new research and development facility. Regarding the city's performance obligations, the city of austin will provide a 10 year performance based economic development grant, which is payable on an annual basis. The total estimated value of this grant is \$1,667,575. The city is not obligated to make any grant payments for a year in which the company -- in which the company has not fulfilled an obligation or condition applicable. So looki the next steps, we propose a public hearing for march the seventh. Currently the public is also able to provide comments online at [austintexas.Gov/economicgrow](http://austintexas.Gov/economicgrow) th. That window of opportunity will end at 5:00 p.M. On sunday, march the third. On march 4 we will compile the comments and present them to city council and then we propose that march 7 public hearing be conducted followed by a city council vote. I thank you for your time and consideration. Kevin johns and I are here to answer any questions. As well, we have representatives of national instruments here with us today. Mark finger and stacy schmidt. [05:03:26]

>> Mayor leffingwell: And we do have four speakers signed up to speak on the briefing. We will go to those first and then I will reserve questions for afterwards. Kavon sabrilian. Right here. Right here is fine. And everybody is aware, we are not taking action on this item today. >> I understand that. I am not sure about everyone else.

>> Mayor leffingwell: Well, they are now.

>> Okay. Good morning, mayor, good morning city council members, I am an attorney at the equal justice center and I also have a degree in labor economics and I am here to talk about accountability. I am not going to repeat everything that was said and I commend national instruments for wanting to move to austin and for pat making sure there is minimal requirements and the city is getting a good deal here but there is an issue of accountability. I was at a friend's sister's house the other day and there was a group of women

-- all mothers, they all had small children and they were in the kitchen talking about how one of their sons had been caught trying to take a cookie out of a cookie jar and they are all talking about when the kid

-- when their child gets caught trying to take a cookie out of a cookie jar, what do they do? And they are all arguing back and forth between each other, well, I would take away cell phone, won't let him play video games for an hour and all arguing and amongst the argument, the woman would said, I wouldn't let him have the cookie and all the women turned instinctually on the mother and said that's all you do, because they understood that there has to be accountability here for people not doing what they are supposed to do. If you look at the deal and if the city council members can turn to 1.03d, 1.04f of the deal with national instruments, you will see if the company doesn't do what they are supposed to do under these terms, the rescission is limited to one year and if you look at 1.09, even if the company defaults, the city must pay for the prior years. I would also attract your attention to 3.04 and 3.08, where the city has to give 90 days notice for the company

-- when they find that the company is not doing what they are supposed to do, but the company can terminate the deal at any moment. So effectively that creates a situation, as I understand it, where the city

-- if the company gets caught not doing what they promised, the city sends out a letter. They have 90 days. Within that 90 days, the company can say, deal is over, it has no more force. They get to keep all of the money they got and everyone moves on, but the city is giving out money and there is no

-- there is no

-- they have no power to make sure that the deal in the future gets what

-- gets what they had been promised. I also point your attention to 3.14, which says no third party beneficiary. I thought the whole point of these economic incentive deals was that the beneficiaries were the citizens of austin but this provision says that there are no third party beneficiaries and i understand that

-- but, you know, these could be standard parts of a contract. But I would suggest if we are going to negotiate with companies that represented by counc we should have an ordinance that represents these issues.

[05:07:11]

[Buzzer alarming]

>> mayor leffingwell: You have three additional minutes donated by roy weily.

>> Thank you very much. And I commend city staff and I think it is a difficult job to write these extensive contracts every time, you know, there is a development deal. , Especially because i understand that there are attorneys around, the city, around the state, around this country, who push very strongly for these economic incentive deals and get a lot of money to represent these companies and make sure these deals are as favorable to their clients as possible which is their

duty and their right and what they should do as attorneys. My suggestion to the city council is that instead of having the difficulty of making sure that every one of these deals that is written in the minutia protects interest of the city, take the lawyers out of the equation, and they pass an ordinance, just one ordinance that addresses all of these issues and does exactly what, as I understand, the subcommittee of this city council suggested, which is ensure accountability for the busiest partners that this city does economic incentive deals with. And we just saw it in the newspaper yesterday, with the marriott, where it's

-- if there is no policy

-- in my opinion, it's as clear as day that there is no way that white lodging and marriott could argue in any way they didn't understand what the wage is, but that needs to be put down on a piece of paper and put down in an ordinance and say these are the deals, minimal deals. We went get in a fight over contractual language every single time there is an economic incentive deal. So my suggestion to city council is to look at this ordinance and address these issues and going forward, long term, I think that the city should pass an ordinance that's

-- that they've had in front of them and that the subcommittee has recommended already, that ensures accountability. Anybody have any questions?

[05:09:22]

>> Spelman: Mayor.

>> Mayor leffingwell: Council member spelman.

>> Spelman: I want to ask you

-- is this a hypothetical question or philosophical question, you are equating national instruments receipt of incentive to a kid taking a cookie out of the cookie jar without authorization. And I understand the cookie jar is a particular place the kid is not given authorization to take that cookie out of the cookie jar. If he's doing so, he is doing so improperly. I understand the notion of accountability, because if all you do is put the cookie back, you will do it, hoping you will do it and not get caught. I understand that. In this case, it seems to me this is a very different situation. Here national instruments is sawe can only provide 1,000 jobs, but only if we can get help. We offer to help them out. The state offers to help out. There is a bunch of things going on here and, say, they don't provide 1,000 jobs. How is it that we are harmed by their failure to produce the jobs they thought they were going to be able to produce, other than the incentive payment that we are giving them?

>> Well, if you look at

-- again, if you look at how the deal is written, the analogy would be that the child who takes the cookie is national instruments if they don't do what they are supposed to do under the disagreement, right, and if you look at how this ordinance is written, they don't have to give back

-- it's not

-- they only have to not get that year's payment, so if you

-- if you don't

-- if there is no disincentive for them to not

-- not give back with their

-- no disincentive for them to do what they are supposed to do

-- I take your point that the prior years that they have done their job and they should be able to keep that money but I would argue that's not a disincentive because the city has gone out of its

way to sit here, have their staff, their attorneys have this open council meeting to do a deal and within the first year, let's say national instruments doesn't do their job, then the city has done all sorts of effort. In fact, there is an opportunity cost as well, because then there is somebody other than national instruments who could have come in and created good jobs and is not coming in and not creating good jobs because the city didn't do a deal with them. So I

-- I take your point but I think if you look at, you know, the prevailing wage law that has been around for 80 years in this cotry, when the federal government gives out money, there is law that has been out on 150 pages where the company has to pay treble damages if the company doesn't do what they promised to do. These aren't revolutionary concepts and they have protected our state and government's money for a long, long time and we are saying if the city is going to be a part of being part of a economic developer, then they need to negotiate these deals and, in fact, pass an ordinance that protects them. If you ask

-- if you ask

--

[05:12:30]

>> Spelman: You've answered my question. Let me ask you another one, if I could.

>> Sure.

>> Spelman: It doesn't seem to me that anybody is breaking the rule if national instruments is not able to provide a thousand jobs. Weren't able to provide a thousand jobs. If our money goes up front, if we are giving the money first and they don't do their job, I agree with you, there is substantial opportunity cost for our loss of money for, say, a year in exchange for not the jobs which expected and we should be able to expect our money back with interest and a penalty in exchange. That's not the way this works. Under callback provisions, they have to provide the jobs first. If they provide the jobs and we can audit their books and verify, in fact, the jobs they have promised have, in fact, been provided, then we can rebate the property taxes they have already given us. In that sense, we are relatively risk free. They have to do it first before they can give the money back. Under those circumstances, it seems to me to require a penalty or interest payment or something like that is improper because we are only giving money on fee for service basis, if the of is provided. They don't provide the service, they don't get the money back.

>> And I am not here suggesting that

-- I mean, i can suggest what type of penalty I would be support of but the mothers who were standing around talking about their various sons caught with their hands in the cookie jar. You can argue all day, i should penalize him in this way, penalize him in this way. I am suggesting here there has to be a penalty of some kind or disincentive or else you won't ever have any accountability.

>> Spelman: I am not as concerned about the accountability because i don't see the transaction costs associated with putting this contract together or doing this deal with sufficiently large that we should be in a position to extract a penalty for noncompliance. If they aren't able to produce 1,000 jobs, that is an opportunity missed. I would like them to exchange 1,000 jobs in which it may be appropriate for them to give them their property money back, on the taxes but if that doesn't happen, I don't think we are out anything substantial, other than a little bit of time and the time we are out making these deals is relatively small compared to the value of this project. I think we have a philosophical difference but I want to get a sense of why you think

accountability is important in this case and i think I understand it, sir.  
[05:15:06]

>> Thank you.

>> Mayor leffingwell: I agree with council member spelman. It is as simple as this: The contract says to national instruments, if you do this, then we will do something. So if they don't do it, they don't get anything. It's basically that simple.

>> When national instruments.

>> >>Professor: It is just a statement. Not a question. I am saying I completely disagree with your amcy and analysis of it because it esnot like stealing a cookie out of the cookie jar. It is more like saying if you are a good boy all day long, you can have a cookie. [One moment, please, for change in captioners]

>>

>>

>> I'm bob from austin interfaith and temple beth shalom. Thank you very much for hearing us. After this special committee on incentives voted support of the wage provisions that concerned incentives, there was concern that these deals would dry out. There was a lot of talk about worry about what the impact of those provisions would have. An article came out in the austin business journal which pushed back a little and said it wouldn't be a big deal. We've had visa, we've had national instruments come on basically voluntarily, accepting the provisions that the special committee recommended. I think it's time to move on with the special committee's recommendation and formalize this. We can argue all day about enforcement capabilities, but it is really preferable if we have clear, consistent rules for these incentives and so everybody understands the expectations involved. We want to have everyone treated fairly and everyone includes the city, the people who pay taxes, the workers and the companies receiving the incentives. We applaud national instruments for agreeing with the provisions that we care most about, and we'd really like to see quick action on a more comprehensive incentive ordinance. Thank you.

[05:18:31]

>> Cole: Erin chapel.

>> You, mayor pro tem, members of the council. I would just like to -- aim aaron chapel with the laborers union. We would like to aflawed national instruments for valuing the workforce and agreeing to pay a living wage and prevailing wage. But we'd like to strongly urge the council, similar to the last few comments, that the council implement the policy that was recommended at a committee in november. I think there's time right now to look at drafting these deals. That same time could be put into writing best practice language that then we could just implement on all future deals. And I would really like to clarify some of the remarks -- my perspective of some of the remarks earlier. We're seeing with the marriott deal that there is a danger that there is no quid pro quo at all. That it's possible that this developer will not even have to give back the tax money even though they're not in compliance with paying the living wage to allow workers to live here in austin with dignhe wages they deserve and that the council

asked them to earn. We would really encourage you to take a moment. There's this deal coming up, national instruments. There's a rash of deals in the pipeline. Take a minute before this happens, get the language in place so that we can come out here and welcome these companies to town, the jobs they're creating and those those will be good jobs and be confident that there will be compliance. I understand there are specific issues that may be holding things up a bit. I think either way we're looking at contractors having to float the higher wages that companies are voluntarily agreeing to and so we can figure those out when there's an opportunity. I think rest of these provisions we can put in place and snort to hope, but be sure that we get what we're bargaining for here. Thanks a lot for your time.

>> Cole: Thank you, aaron. Greg cesar?

[05:20:35]

>> Good morning, council. I think most of my comment have been covered previously, so my primary comment has to do with what mr. Chapel just stated, that we saw on the front cover of the statesman after the governor came back from california, what seemed like bragging that we'll be bringing lots more companies in, two or three times as many companies with a quote from some of our local chamber folks. So we can keep on crossing our fingers hoping, really hoping that people are going to comply with what came out of special committee. And I'm a very hopeful character and even in this situation I still think that there's a good shot that another deal or two is going to come through and that one of them, just like many of the deals of 2012, is not going to want to voluntarily comply with these standards. So I hope that we don't keep having more and more deals sitting on this when we already know what the standards are that austinites have been valuing here and talking about for over a year. Thank you so much.

>> Cole: Thank you, greg. Phillip lawhon.

>> Good morning. My name is phillip, i represent the international brotherhood of electrical workers. Once again I want to say that we ask that the city council go forward with the incentive policy that we've worked on during the committee

-- special committee work group. And that we move forward with this promptly before we have to go through another several months of coming back here and talking about these new incentives proposals will different contractors. And just like greg said, there's possibility that some of these corporations and companies are going to come in and not want to comply with some of the interests that are best for our community. Thank you.

>> Cole: Thank you. And next we have ronnie reeferseed.

[05:22:47]

>> Okay. I'm sorry. This is item 48. Okay. Real quick action. Please take your time. And I'm just speaking in response to a previous speaker. And that is, we don't need yet another slimy kick-back laden scheme that my colleague mr. Spelman says is risk-free. Which is really amazing to me. And you say you're not concerned with the accountability. Maybe it was just a slip of the tongue or something. But spasmodically wasting precious taxpayer dollars to convince yet another business, special interest group to come here with slogan-laden non-commitments, for example, the \$11 an hour. They mentioned it here. They once again kind of promised it. It's not

real. It's not a real promise. And I just learned that at the most recent tarrant county commissioners' court session this week. That fact was gone over and over again. Yeah, we really kind of like that idea, but no commitment! So here again we're sacrificing precious, flimsy taxpayer dollars. I mean, we're hurting. And to give yet another nunk of coin to some yet another slimy special interest group with kickbacks and special deals, we don't need to bribe people to move here. We live in austin, texas. Hello! Where does everybody normally want to live? Austin, texas. So first to cough up yet another hunk of taxpayer dollars to get -- make a special deal with somebody, where is the special interest slimy kickbacks w does that money go? Anyone have a clue on that one? So the evil schemers at the top are actively making way for frankly killing us all if we pay attention to what they were talking about. Robots!?? Robots! Think long-term. What do robots do? They take up jobs. They take jobs from human beings. What happens when all the human beings' jobs are no longer needed? It's part of this death

-- I was erroneously listed later as a death grill. It's not a death grill. It's a death grid. A whole lot of people at the tip top of the tip top, they're planning on killing every one of us. And you might think you're in the top 20% or whatever. It's like the top tiny bit of one percent that they're planning on letting survive. This is really happening, people. I know it sounds hard to grasp, but this is yet another example of it. This particular company, we're discussing whether to give them money.

[05:25:47]

[ Buzzer sounds ]

>> Cole: Thank you.

>> They're into robots.

>> Cole: Next we have clay dafoe. Good mning city councilmembers. My name is clay dafoe and for the record, I'm an activist here in austin and I work selling underwriting for a knot for profit community radio station. And frankly I speak here as a citizen. I'm really disappointed with this resolution. I know you guys know better. And I'm also disappointed with our presiding officer, mayor lee leffingwell. He had time to interrupt the speakers to make a inside comment and a joke, yet he doesn't have time to sit here. He wants to upgrade kav on. N, but doesn't have time to sit here and listen to everyone else who has to say what is important. What they have to say is important.

>> Cole: Clay, I have to ask you

--

>> we need to be heard.

>> Cole: Clay, I have to ask you to comment on the issue.

>> I am commenting on the issue. This is corporate welfare at its finest, councilmember pro tem cole. And it won't change. Your corporate welfare schemes will not change until you begin to understand the proper role of government, which is not to create empires. Patrick henry said you're not to inquire how your wealth is to be increased or how to become a great and powerful people. You are only to inquire how your liberties should be secured. Your liberty is the earthly blessing that makes us free and a free people. No more incentives, mr. Mayor, no more handouts, no more giveaways, folks. People are starving out there and here in austin. They are starving. People are becoming impoverished because of these kind of corporate welfare schemes and

deals. Why does national instruments deserve this deal? I want you to answer and i want you to dwell upon. Economic development to you is signing a piece of paper and throwing around federal reserve notes at a project you think is going to make some people rich. Most of austin is not going to get rich off of this. We're actually going to be made poor. And I'm tired of spending my tax dollars on wasting everybody's time and wealth. And that's the problem because you guys don't live in the real world, you live in the government world. That's your idea of wealth, giving millions to billion mayors. Giving millions to boerneic he will stone or visa almost twoon dollars. National instruments is another example of corporate greed and corporate waste perpetrated by you, our supposed representatives of the city of austin. So I want you guys to think a little more about this. Thank you for listening to me and I hope y'all have a great day. Thank you.

[05:28:58]

[Applause]

>> Mayor Leffingwell: Corporation that's all the speakers. And I guess that concludes the briefing. Are there any questions from councilmembers?

>> Cole: I have a couple of questions.

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: Okay. Ben, I asked you a question yesterday and this might be a real good time for you to answer it. Let me remind you what I was getting at. The way city government in austin and city governments all over the united states are funded is through taxes for businesses and taxes for residents. And generally speaking, the services that residents receive are more expensive than the taxes we take from residents. And residents are subsidized by businesses who pay out more in taxes than they receive in services. It's fairly rare for a business to call 9-11, to have a fire, for diesel services. It's a lot more common for a resident to do that. So generally speaking the way it works in austin, like in every other city in the united states, is business disease residences. Is that fairly accurate?

>> Absolutely.

>> Spelman: Okay. So in this case like in other economic development cases, we're talking about giving back a large portion of the taxes paid by a company, meaning we're giving back some of that industry and at some point we would be giving back the entire subsidy. In exchange we're getting jobs for a thousand people and those thousand people are going to be living in austin, texas and they're going to be paying taxes and using services. If those people are already here, I'm prepared to believe that that's a wash. They're already here, they're already paying taxes, already receiving services. Now they're getting jobs and they'll be paying a bit more taxes, maybe receiving a little bit more services. That's great. But we're still losing money on those people. But because they're already here, the addition of the business work, the business taxes, is sufficient to have the books balanced. We're a little bit better off because we've got th business doing its job. If the people are coming from outside of austin, texas, they represent a new obligation. These are people who were here before getting subsidized and now the business that is employing them is no longer paying as much in to the kitty that we're using to disease those residents as it was before. Does that make sense? What am I missing?

[05:31:41]

>> As this incentive is given to the company for property and real

-- parole and business personal property that would not have been anticipated but for this

particular agreement.

>> Spelman: Right.

>> So it's creating more taxes for the community, which would not have taken place but for this agreement. And we are only reimbursing them for of that new added additional revenue generated by the project.

>> Spelman: I understand conceptually how all this works if they're primarily hiring from within. If the majority of the people at national instruments are going to hire are people who are already living here right now, are already obligations, already putting in money, using services and we're already losing money on them. But most of the people that I understand that national instruments is going to have to hire to staff an r and d center because of their high standards, they require 3-point # grade point average from newly minted engineers and don't have that many 3.7 gpa new plinted engineers from the university of texas for which I'm happy to take some small share of the credit because my grades aren't particularly high. If we're talking about a lot of people moving to austin, texas, that's representing a whole new class of obligations. A lot of people who will be coming to town that we're not having to take care of right now, and we're reducing the subsidy available from the company to be able to pay for them. It seems to me at some point the books don't balance. If, gravel, 100% of the people were coming from out of town and we're giving back 100% of the business taxes to a hypothetical national instruments that was making a slightly different deal, then there's no way that could possibly work out. How is it that it works out here with 65% coming from out of town and our giving back 50% of the taxes?

>> Well, in the web loci analysis to specifically address the direct fiscal impact for the community and that's a fact that we'll have a lot of new residents coming in and was taken into account. I do have natalie betts here who could explain further on how that analysis was run for this particular project.

[05:34:05]

>> Spelman: That might be helpful. Thanks, ben.

>> Good morning. I'm natalie betts, economic development specialist. So with every web loci analysis they're actually assuming that all the new jobs created are going to result in either an unemployed person getting a job or in a new person moving into the city of austin, whether or not that person is employed by national instruments, in this case, they may be leaving a job to take the national instruments job, which will create a job chain eventually filled by someone moving in.

>> Or somebody who is currently unemployed getting the job.

>> Correct.

>> Spelman: So the assumption you made is 65% of the people are new hires.

>> The percentage of local hires is not actually an input to the web loci analysis. It assumes that everyone who is not unemployed

-- the unemployment rate is an input, but every other job filled by an unemployed person results in a new person coming into the economy.

>> Spelman: Okay. Let me ask you this: How would the web loci analysis from your point of view be different if national instruments said, look, turns out we can fill 85% of the jobs with local hires?

>> I don't believe it would be any different.

>> Spelman: Okay. So fundamentally that metric of the percentage of local hires doesn't really show up in the numbers here.

>> That's correct.

>> Spelman: Okay. Is that realistic? Is it going to be a difference in the fiscal impact of a company that is hiring 65% of its people from outside as opposed to one that's hiring 85% of its people from inside?

>> In terms of the fiscal impact, the web loci analysis would say no. We do take into account the number of local hires in our scoring matrix as a community benefit. I would have to rely on the web loci analysis in this case to say there would not be a difference because someone is going to move into austin to take a job, whether or not it's this job, by the new jobs being created.

[05:36:17]

>> Spelman: The underlying assumption is people are coming to town and they're going to come to town whether we do this deal or not and they're not going to come to town any faster if we do this deal than if we don't.

>> The underlying assumption is that by creating a thousand new jobs with this deal, that will create a thousand new vacancies in the economy that did not previously exist. So much there are people in the economy that will currently take some of the jobs and create vacancies that will be filled by someone else on down the line until someone has to move to take a job.

>> Spelman: So a thousand jobs is a thousand jobs and fact that this particular company is hiring mostly from outside really doesn't matter, just a thousand new jobs in the long run because of all the movements.

>> Correct.

>> Spelman: I need to get my arms around that. That sounds like an interesting idea but I need to process that a little bit. Thank you, ma'am.

>> I would also say quickly that there is an underlying assumption that people are going to come here anyway and we need to provide jobs for those people who are coming regardless of whether or not national instruments or somebody else makes that kind of expansion. Mayor pro tem?

>> Cole: I wanted to follow up with that whole line of questioning because we have been faced with when is the growth going to pay for itself? So when we have companies that come and it's known as opposed to the unknown number of people that come, that there are going to be a thousand jobs created and perhaps 50 to 60, 75% of those are going to be from out of town. Is there any way to put a measurement on the actual

-- what the new hires cost the economy in web loci? Let me tell you what I'm getting at. With he know when someone comes and they haven't been here before that they are going to have to buy a house. And we're going to have to serve infrastructure to that house. We know that they're going to very likely have kids that go into schools and we're going to have some increase in the school population. So I'm just wondering about that whole line of analysis, has it been done? Do we think about it, do we talk about it?

[05:38:36]

>> Yes. In your web loci analysis there's a section on cost and it's based on city budget and also the cost of providing utility services like water and energy. So that is the 18 million cost that you see and the analysis is based on new people in the economy that we have to serve.

>> Cole: So that's our infrastructure cost that we associate with and we actually do measure that.

>> Yes. The categories included our libraries, our courts, general government, health services, social welfare, public safety, water, wastewater and electric power.

>> Cole: Public safety, that's good. I also wanted to ask a question about the 73,000-dollar

average pay. And then there was some assertion that that -- that national instruments may still not be paying \$11 an hour, and we want to make sure that they do that. Can you speak to that?

>> National instruments has agreed to pay an 11-dollar an hour wage to all the new jobs as a minimum for all the new jobs at the research and development facility.

>> Cole: Thank you, mayor.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: Thank you. First I have a question for mr. Johns. I think the questioning from councilmember spelman focusing on the

-- how we find web loci is. I know web loci came out of your home state and your home university, but the question really is is there a more refined tool available where we might be able to adjust the dials of what percent of the new employees would be from out of the area versus in the area? Because as I understand it, it just assumes 60% all the time. And the question is how much is that really going to affect the outcome and the bottom line numbers?

[05:40:36]

>> This is the most advanced fiscal management tool that exists today. I'm sure there will be improvements to it. As we look at the results of the surveys from the 11 companies and the best practices we're also looking out for any refinements that we could make. But this is pretty state-of-the-art.

>> Morrison: I feel the need for a more refined tool and I think there might be a sense in the community that that would be helpful. Is there any way that we might be able to interest some academic that knows the insides and outs of web loci or anything in pursuing such an effort?

>> I will call robert land, the georgia tech creator, who is the person who does the analysis and makes the refinements. And I'll follow up and I'll report back to you and see if there's anything we can do to make improvements on it.

>> Morrison: That would be great because I have to believe that that number 60% is somewhere inside their spreadsheet and the calculations. And if they were just to make that a variable that we could actually change it might not be that big of a deal. So I just think that would be very interesting.

>> I will look into it for you.

>> Morrison: Great, thanks. And then I do want to just comment a little bit on the fact that a lot of the engineers are going to be recruited from out of the area. Because for me that's not really a percentage of local hires is not a litmus test, yes or no, in terms of whether I'm going to support that, but I do think it makes sense to look at the reasons for why they might have a large percentage of people from out of the area and obviously that's because we don't have a lot of idle engineers here in central texas, which is good for engineers. If they were to make a commitment to hire their folks, their engineers from this area, in fact, they would be having to go and -- what's the nice word to say? Poaching. They would have to be getting their engineers from existing companies and then those companies that are already here would then just be in trouble. So the reality is that that's what they have to do. Did you want to comment on that, mr. Johns?

[05:43:01]

>> Yes. I think you make a very valid point and I would like to point out that this is the first time track that we've done or that we're aware of anywhere in the country where a company is committed to create the pipeline. Where they're committed to help train a thousand children every

year and that it would create a whole generation of kids of colors that can be the scientists and robotic experts. Because even though we have a large population of engineers, national instruments is unique in that it hires people directly out of college. Their purpose is to take kids directly out of the schools so there's

-- out of the college. You can't absorb really every single engineer that is graduating. And so you make a very valid point. We need to expand the pipeline and I think that's the key to this project is unbelievably wonderful. They're creating their jobs in their headquarters and it's an r and d facility. But I think we need to create austin as the base engineers of the future and if we could get 10 companies like national instruments to do this, just think of the impact we could have on our community.

>> Morrison: And I want to second that you said that what's really critical here is that national instruments is committed to creating that pipeline not only with kids straight out of college, but we heard all of their involvement in trying to get kids at very much younger stages in our area interested in engineering and so that's a serious commitment that they have in sort of helping to grow the engineering base within

-- within our region, within the city of austin. And I just wanted to mention that I can attest to that because I attended one of thely go robotic

-- they go robotic competitions and i believe it was one of the vp's from national instruments spoke to these kids and I recall very clearly one of the things they said was did you guys bring your resumes? Because I want your resumes because I want to hire you as soon as you're out of school. And so that's a pretty

-- that was off the cuff. They didn't know I was there. They didn't know they were going to be coming here. It was two years ago. But I think that demonstrates their commitment to

-- it just makes good business sense for them too clearly, if they can get kids that are here that are -- that are engineers rather than having to go up and down the i-35 corridor as was mentioned.

[05:45:51]

>> I just have to say that that is such a great example. About a month ago stacy schmidt, who was here, invited us to go to the second

-- to this year's robotic lego's program. And I was reminded here because of the girl scouts here that there were girl scouts here and they had names like the panda robotic engineers and there were 60 kids over

-- 60 teams, over 500 kids, that they were doing rescue robots. And the police department had a rescue robot. You could see they were energized and be a generation of kids that were not going to have problems with their resumes.

>> Morrison: Right. I think I went a couple of years ago and my staff 20 year: One of the really compelling visions that i had from that was that these kids and these teens, it was just like a pep rally, just like for a football team or a soccer team. So these kids were able to find, you know, an environment that they might be seeking because of, you know, other pressures that they're experiencing in middle school, but it was about engineering and developing their skills and developing the engineering talent here. So I think that that really plays in to a lot of what we're thinking about here. And I do have one other comment, somewhat related. And that is of course national instruments is one of austin's sucess stories. And so we're looking at a

-- we're looking at a 380 agreement for an expansion of a homegrown company. Is this the first time one of our three

-- I'm trying to remember our 380 agreement. Is this the first time we're doing one for an

expansion of a homegrown company?

>> Well, for example, are apple had over 3,000 employees here. And so they added another 3600. This may be the first. I have a group of people emerging behind me. I'm starting to get freaked out.

[05:48:09]

>> Excuse me. Rodney gonzalez, deputy director for economic growth and economic department. (Indiscernible) is an example of a locally grown company. It was grown locally. We've got a chapter 380 with them and they're doing quite well.

>> Morrison: Is there another one?

>> Let me look. We've got a list of the different

-- you recall mr. Johns, kevin had presented on january 17th the council presentation, as far as I can update. Samsung comes to mind. They're not locally grown, but they've got their first location outside of south korea, so we certainly consider them close to homegrown. I can't find that presentation. Actually, it's over here. The companies that we've got incentivized are

--

>> Morrison: You don't need to list them all.

>> I think it just remains with hellio volt because the other ones are outside. They may have had some type of austin presence, a significant presence, and what they've chosen to do is expand their presence in austin. Apple is a prime example.

>> Morrison: And I think that's one point to consider, and that is that this is very successful, homegrown, based on the tech talent we had from years ago. It's something to consider in the mix. Thank you.

>> Mayor Leffingwell: Okay. Thank you very much. We'll see you on march 7th. Austin energy, can you do your quarterly report in about 10 minutes? It's okay if you can't. We can hold you over for lunch hour and have you come back.

>> I can go fast. Good morning, larry weiss, general manager of austin energy. I'll update you on the quarterly previousing. This indeed is for the first quarter of last year, so we're

-- this data is getting a little bit stale, but we'll move through it as fast as we can. Today I'm going to talk about our generation plan update, operational highlights and consumer service financial update. And our cfo is here with me and she will be doing that piece of it. Real quickly, the new wind that we put online in december of 2012 is in our portfolio. It's operating. In fact, one day recently we were carrying a substantial amount of our load with renewable resources, the wind production from south texas was almost record breaking. The additional wind that we want to look at, tax credits have been extended for another two years as long as the project commences in this fiscal year. And so we're going to be sending out an r.F.P. Real soon for additional wind resources in early 2013. An additional other acquisition would be for our utility scale solar and we will be looking to do an r.F.P. For that probably later this year or early '14, to look at what we might attract in the solar arena. Our customer solar programs, that is the consumer solar programs that are with commercial, residential customers, our statistics are pretty phenomenal so far. Since 2005 we've put 2,306 systems in the area. 900 megawatts of installation. And the fy 2013 goal was 7.45 megawatts, and we're currently about 12% of that goal, of course, this is really consumer demand. So depending upon whether consumers are

-- we market it pretty hard, but it's been popular so far. We also have 13 commercial projects and several not for profit performance-based incentives, applications that we received. I might also report that we are digesting the content of the advisory report, the committee report that was

done, and we're looking at how to incorporate that in our planning. There's some pretty ambitious goals that that committee came back with, but we need to incorporate that into our generation plan and we'll be doing that over the course of the year. I brought with me today the next slide, which is pretty messy, but we have electronic versions of it and also out in the atrium coming into the council chambers here is a poster board of it. These are all the solar systems that we have installed in our service area. Now, it's a little confusing. The shaded areas are the city limits of Austin, however Sunset Valley and some other pieces of it are also in that shaded area. It's a little tough to read. But this is basically all of the systems

-- there's no designation to our service area, but you can see if there's a blue dot that you assume that it's in it. And it's one of those icons if you will that talks about the different systems. Our base load generation, we have had in the budget and the forecast in addition to a high efficiency gas combustion turbine at the Sand Hill Energy Center, we're still on track with that in our forecast. The South Texas project, our nuclear project of which we have a share with NRG and CPS, we have an outage that happened with a transformer, and that outage has brought one unit down until May is what is forecast right now. That shut down, it shut down so fast that we may have some bearing damage or some shaft damage in one of the steam turbine generators and that's being evaluated right now. The extent of the outage is still unknown, but the plan is it will be out until May.

[05:54:19]

>>> Additional gas generation, we're in the planning and review stages. As you can tell by the previous presentations, we are growing and we're growing in a lot of ways. And so we are looking at additional base load, dispatchable generation which has to be a part of our portfolio and operations as well. Our generation plan that continues to evolve, we will be back for a reaffirmation of the generation plan, but this is the chart that we're operating with today. We've shown some additional gas generation to meet our load necessary at about 180 megawatts. I've also added that we are in this forecast, our goal is that we're going to reduce the use of Fayette Power Plant down to a capacity of 367 megawatts. What that means is the real capacity is 602, but we won't operate it as much so we can make sure we hit our 2012 goals so the net effect is that it ends up being a capacity for about 367. Our necessity for affordable energy in here is a good story. We have a portfolio moving to 27%, in early FY 13 that we're in now. We have several purchase power agreements that we've talked about before that make up that portfolio, in addition to our solar programs and all the other solar acquisitions we have. Our power supply adjustment, which is a component of the bill, we changed it during the last rate approval to apply from a fuel adjustment. We're just using more modern terminology. And in our current rates we're at 3.36 cents a kilowatt hour for that fuel rate. The long-term industrial contracts are at 3.39 and that's because there's still some ERCOT administrative charges that we couldn't drop because those contracts are in effect until 2015. So every year that you're looking here, it's not every year, but these are the years that have change and what you see in the circle is the reason why it changed. So in 2008 Fayette Power Plant and the South Texas nuclear project had big outages. Similarly in 12 we had outages and that always bumps that up because we have to replace the power and we have some additional costs associated with that. Our affordability goal, which we operate under, as you know, and we show that affordability goal getting up to our approved rate increase in the near term, but the long-term forecast looks pretty good. As long as our generation and operating characteristics remain as we forecast, that's where we're looking at out in the future. Operational highlights, very small thing, but we resigned all of our substations. We have

approximately 80 substayings in our service area. They all have for safety purposes have new addresses on them and the signage in most cases was there. We've made sure that we tip to watch our safety and want to make sure that the locations of all our stations are out there for our employees and for the public. So the operational highlights, the holly decommissioning update, the holly power plant it's schedule has been slipping a little bit. We sent a mexican-american memo out to you. It's a complicated prong, but we're monitoring it close and the emergency is continuing to be decommissioned and demolition is ongoing, but it is not meeting the schedules that wormingly had set out.

[05:58:02]

-- Originally had set out. And we can certainly pass on more information about that at a different point in time, but we're monitoring it very closely. We're monitoring the public utility commission of texas on the meter opt out program. This is where customers who do not want electronic radio-controlled or radio operated frequency meter on their home or business, that they want an old analog meter, there's people that want that and we've had some requests, we're monitoring what the commission is going to do in texas because as an industry we want to confirm to the standards that are applied across the state. Reliability index, a good story. We don't have the latest windstorm in here, but i will tell you that austin energy's electric performance thanks to our engineering and our crews and all of our employees have done a great job in meeting our goals. This is the city index. This is the duration of outages and we're at our target or below. And this is the frequency of outages, and we're slightly above our target for 2012. You can see where the industry averages are. Some consumers service highlights. We have something that our consumers had wanted, we'll roll out soon and that is time use rates. We have a rate that was approved, you approved it, so we have a rate schedule, but we have to put the technology in place to allow our residential customers in particular to use it. We have this for commercial already, industrial. But this is for residential customers. Who may not want -- who may want to charge their car or something else to do that. And use those time use rates. I'll be okay. [Laughter] implementation of austin water rates and austin resource billing charges, that's gone into place. I probably wouldn't do this if I went faster. But anyway, the billing changes are in place so february 1 of 2013 we achieved that, so all the billing changes were put in there. The green button is a program that was really actually initiated by the white house and their energy staff so we agreed to participate with them. It's literally going to be an online where you can press the button and it will tell you what your last 24 mo usage was. It allows you to look at your usage and see how you're trending. And we have a new vice-president of our energy efficiency area, debbie kimberly who comes to us from the south river project. Did you drag her along today for an introduction, but you will see her from time to time. And we're happy to have her aboard. We just completed a regional science festival as well over at palmer events center. And it was a great success and we get a lot of support from the students and families in that event. And there's a little picture. I think that's from 2012. A financial update. I'll let anne little continue with that and then we'll have time for any questions.

[06:01:27]

>> Mayor Leffingwell: Ms. Little, how long is your presentation?

>> I can cut it very short. I can skip over some of the slides.

>> Mayor Leffingwell: We can go about five minutes over and that's it. We'll have to come back for questions.

>> I'm anne little, cfo for austin energy and I'll present the fourth quarter results for 12 months ending september 30th of 2012. This is a little bit new format and these categories were pulled from the capper so they're very consistent for comparison purposes. The first line shows the operating revenues. And you'll see quite a bit of fluctuation. Those fluctuations are due to weather and power supply cost primarily. Growth was very moderate over that time period, so most of the fluctuations were weather related or power supply cost related. Operating expenses shows similar fluctuations, but it can be divided into two categories. Half of the operating expense is variable cost which fluctuates with production or sales. The other half we've held very flat over that four-year period. Depreciation expense is a little bit different. We use straight line depreciation, so it measures the consumption of the plant basically. So you can see that it's increasing which means we're adding a considerable amount of plant. We do that in order to maintain reliability and then some of this was due to environmental commitments that we had made. That results into the operating income be, which has the same fluctuations. Other revenue and expenses, primarily interest expense and interest income with some other adjustments netted in there. And then we have our contribution to the general fund. And that results into net income for fiscal year 2012 of a loss of \$28 million. And of course our new rate increase was not in effect in fiscal year 2012 so we expect to improve

-- to see some improvement in the future. And then we have some ratios there just for comparison. A few weeks ago we actually presented the budget's actual comparison to the audit and finance committee so many of you venus this. I'll just

-- many of you have seen this and I'll skip down and make one point. If you look at the excess and deficiency you will see that our year end deficiency was eight million dollars, which is much less than what we had expected. So all of our variances are favorable. This is our revenue highlights and we're looking only at base revenue here. And you'll see the same fluctuations that are driven by weather here. One point is last quarter when I made this presentation we were trending to exceed fy 2011 but you probably remember that july, august and september were extremely mild so it came in much lower than 2011. Another interesting thing is if you look at the annual system peak below we peaked in june in fiscal year '12. And typically we peak in july or august. And our non-summer and summer peaks were both driven by air conditioning load. So that translates into a very early and shorter summer than usual. The expense highlights are self-explanatory. We maintain very flat costs over the last four years. Now, last time that I was here I promised some performance measures. And so I'll quickly go over these. We do have some comparisons with other utilities, but it's important to note that any one of these does not stand alone. They all work together to accomplish the strategic goals of the utilities. And every utility has different strengths and weaknesses. So their risks differ and risk mitigation strategies differ from utility to utility. But these are very interesting and good for us to look at. You'll see austin energy with our logo above it on each one of these. This is the day's cash on hand and it measures liquidity. And our target, the minimum target is really 150 days. You can see that we're below that, but we're expecting to accomplish that within thenext few years. Debt service coverage is another indicator, and our minimum is two times. You can see how we're comparing to some of these other large public power utilities. And we've pulled in a few of these from each of texas so that you can see some comparisons. And we have done some analysis and there are reasons for a lot of these. Like I said it ties back to their overall strategy. This is the debt to customer relationship, and this is just total debt divided by total customers. So it measures the fixed costs within the

-- that each customer is embedded in the cost. And these are not on annly basis just you're

looking at over one and a half billion dollars of debt, so it's just an indicator of the fixed costs within your charges. This is equity to capitalization, and you have to be careful looking at this because austin energy's financial policies reverse this. We have a debt to equity ratio. So down at the bottom I just point out that our equity is 53.7%, which is what shown on this chart. And the debt is 46.3. And of course, our target is 50/50. Are there any other questions for larry or me?  
[06:07:13]

>> Mayor Leffingwell: Unfortunately, we'll have to come back for questions. We're way over our time limit. Councilmembers, can you give me some indication? Councilmember spelman, you will have questions? Just a couple. Morrison. Riley. Tovo. Okay. It will be after central texans and after executive session, so estimate two hours minimum. And we'll go to our citizens communication. And I had a request that tom hatch  
-- some folks are here from staff to address his topic. So we'll let him speak first. Tom hatch. He's not here. We will go on to susana almanza. Susana almanza? Not here. Robert mcdonald. Topic is homelessness, an endangered sis. Sees. Endangered ses.

>> Good afternoon, city council, mayor. Pleasure to see y'all again. I'd like to read again from the tree of brain remembrance. Homelessness, it is the essence of depression. It is immoral. It is socially corrupt. And it is an act of violence. And any day that depose by that we don't stand up against acts of violence, well, we might as well be participating in those acts of violence. Meaning that we're all guilty of this violence on the homeless. When I was standing at the tree I was a little far away and I couldn't read the names on the stars. I had to take a couple of steps closer. Roger robot tow, kenneth urban. Joseph garrett, robert daugherty, barry roland. Stephanie hardin. Jacqueline henson. Maria maldonado, leonard johnson. Mary spencer. Maria aguilar. These are individuals that lost their lives because they lived on the streets of austin. Is that enough? How many more? How many less? How many salamanders died last year in barton springs? We protect the salamanders. We call them an I think an endangered species, but I haven't seen one report of a salamander die in five years. And in the last five years we've averaged 120 to 130 something homeless people die on these streets in this city. This city we try to call a world class city. Is that world class? Is it really? I'd like to introduce the homelessness as the new endangered species of austin. The salamanders can die and we stand up and fight for the salamanders. Who amongst on city council and merit's seat will stand  
-- and the mayor's seat will stand up for the homeless and say this is too many? Let's change our hearts, let's change our plans and make a way for the homeless to have homes, houses. I'm not saying give them houses, but let's make a way for them to be able to afford a house for themselves because most of us want to work.

[06:11:46]

>> Mayor Leffingwell: Thank you, robert. [Applause] next speaker I mary miski. Don't see her. Daniel llanes. Sure, come on. Looks like you have about the same topic, haws bar situation. You can have them pass them down. Daniel, pass them all down.

>> Good afternoon, I'm susana almanza with poder, people organized in defense of earth and her resources and also poder is a member of the govalle, johnston terrace contact team. And today I'm passing out a study, report that was done by the national academy of public administration for the u.S. Environmental protection agency entitled adjusting communities concerns, how environmental justice relates to land use and planning and zoning. And the introduction of the first paragraph says local planning and zoning decisions have had an important influence on

environmental justice problems. Zoning and land use planning have been described by some scholars as not only, quote, a root enabling cause of disproportionate burdens of environmental justice, but also the fundamentally and potentially most powerful of illegal weapons deployed in the cause of racism. And in March of 2003 the GoValley Johnston team made history here in Austin and this report addresses it. We rezoned over 600 properties that were zoned industrial commercial service ones or were incompatible with residential uses. And you know, the reason we began is because when we were addressing the tank farm corporations that were in our community and emitting pollution there and we looked at BFI with the household recyclables coming there. We looked at Holly Power Plant, as we addressed these issues we realized that zoning was something that we needed to address and change. Here we come today before you with a case which is an article that we're giving you at 3300 Govalle Street, which is Haus Bar Farms. We have nothing against agriculture and agriculture farms, but when you start raising chickens for mass production and you're slaughtering chickens not for your own personal use, but you're slaughtering chicken for wholesale and distribution, then I think that you don't belong in a single residence. Another reason we're here is because we had gotten several calls like people in the community about the foul odor coming from this particular farm because they are slaughtering chickens for mass production and they intend to be slaughtering rabbits in the future. And I think that this goes beyond the urban farms concept. I don't think that this is really what we had envisioned when we looked at urban farms. We've now met with code enforcement, members of the development review, different people, and they're kind of stuck. They say it's a gray area because you can have these fowl. And we don't think there's a gray area. We think there's a difference in having which chickens for our consumption, but the difference is we don't slaughter 50 chickens to eat and sell. I ask you to look at this case and Daniel will follow up.

[06:15:31]

>> Mayor Leffingwell: Thank you. Daniel Ilanes.

>> Good afternoon, everybody. I am with the Govalle Johnston Terrace coordinating team. And as Suzanne said, we now have four urban farms. Haus Bar Farms is the only one that is planning to and right now they are slaughtering chickens for commercial use. They do have them inside. They slaughter them inside, but they compost them outside. So imagine your house and your neighbor having chicken parts in their yard composting. We contacted the health department. This is a health issue. They don't know how to deal with it because the urban farm ordinance is not clear on this and it refers to other city code. I can tell you that the last entity that slaughtered chickens in East Austin was East Side Poultry. As Susana said as of 2003 when we became a neighborhood instead of the edge of town, they had left. And in talking with the planning people, they informed us that Haus Bar Farms never applied for a certificate of occupancy for an urban farm. They are on two acres, two single-family lots surrounded by single-family houses for several blocks. So as Susana said, I am very happy that we have urban farms and I'll for food justice and all that, but the slaughtering of animals for commercial use, they are already slaughtering 50 chickens a day and composting them outside and they have plans to do rabbits as well for commercial. And even the urban farm ordinance prohibits commercial enterprises of this kind. But as we have found, the reason we're here today is because the bureaucracy, the language is not up to date on this. So we ask for your help. We're hoping to meet with the city manager to try to get this done administratively, but if not we will probably have to come back to you. If you have any questions I'd love to answer them.

[06:17:44]

>> Mayor Leffingwell: Daniel, I believe Carl Smart is back there, inspector, and I would like for you to

-- him to get together with you. I agree, it doesn't sound like it ought to be permitted, if it is. I'd like to get some

--

>> you say it ought to be permitted?

>> Mayor Leffingwell: No, I said I don't think it ought to be permitted. No, absolutely not. Maybe one chicken a day, but not 50 chickens a day.

>> Personally this is different.

>> Mayor Leffingwell: Right. Councilmember Martinez.

>> Martinez: Thanks, mayor. We did look into this and I appreciate them coming down. I wanted to bring Mr. Smart down and ask him a question for the record. As Daniel mentioned, the urban farm policy that we have adopted does preclude some elements of commercialization but I don't know that it specifically speaks to livestock or

-- I don't know that chickens are considered livestock, but when you live next to many animals being slaughtered a day and composted outside as opposed to disposing as most processing plants would, is it a true statement that there is nothing we can do in this situation? That our code doesn't allow enforcement of certain practices?

>> Carl Smart, code compliance department director. I'm going to have to research that question. I think it's important for us to look at the ordinance and take a look at this situation and see if it does match, see if it is in violation of the code. I haven't looked at the situation yet, but I will. I will certainly talk with the gentleman here and then we'll get an inspector out there, take a look at it and see if it's

-- see if it's in violation or not. If it doesn't have a certificate of occupancy, that may be the violation right there, in addition to any other requirements of the urban farm ordinance.

>> Martinez: If the issue is just certificate of occupancy, I don't think it addresses the concerns that have been raised. So I would just hope that

-- I certainly want to continue to encourage urban farms and local food sourcing. It is not something we're abandoning, but I think that this points to an example that we may not have anticipated when we started moving forward with encouraging local urban farming. So I think Mr. Guernsey might have a response as well as it relates to zoning and the type of uses within zoning categories.

[06:20:14]

>> Thank you, Mayor and Council, Greg Guernsey, Planning and Development Review Department. The operation as there as I understand it is just illegal. You cannot wholesale farm products or the livestock, fowl, from the property as a commercial venture. It's just not permitted. The urban farm ordinance is really intended for an individual that would be able to grow, produce on their lot. You could have chickens, sell eggs and that kind of thing, but it really is to the end customer. It was never intended to be sold on a wholesale basis to restaurants or stores or things like that. It was intended to be on an acre of land and there are a lot of constraints on where the animals are kept, make sure they're a proper distance from property lines and it was for them to grow food for themselves and whatever extra they might have to sell. That was really the intent of the ordinance.

>> Martinez: I want to go just one question further. Would it matter if that individual owned a local restaurant and was not selling for commercial purposes the chickens, but processing them

for the restaurant?

>> I don't believe that would be allowed either. That's almost a manufacturing business that relates to that.

>> Martinez: Because i believe that is the case. I don't know if it's this specific farm, but it is a case in east austin right now where a local restaurant owner is processing for their restaurant on their private property.

>> If you had a restaurant and growing vegetable orders whatever on your own property, most likely that property is going to be zoned commercial. It's not going to be zoned single-family. And it's my understanding this property is zoned residential.

>> Martinez: Thanks, mayor.

>> Mayor Leffingwell: So mr. Smart can we get that business straightened out?

>> Yes, sir.

>> Mayor Leffingwell: Thank you.

[06:22:16]

[ ] daniel, talk to mr.

-- that's exactly what we said. So mary is not here. Daniel morrow? Who is back on the topic of lyndon johnson and his relationship with his grandmother, etcetera.

>> Good afternoon, mayor and city council. In 1956 the governor of texas, allen shivers, accused lyndon johnson of being a murderer to his face. He's accusing him of murdering a guy nam sam smithwick in prison in 1952. Sam smithwick had written a letter to coach stephenson who l.B.J. Defeated in 1948 by 87 votes with box 13 in duval county. In duval county l.B.J. Won 200 votes to 3, and 200 people voted in alphabetical order. According to johnson, in 1956 governor allen shivers texas accused him of having smithwick murdered, the charges understandably enraged johnson. That's robert cal lick in lone star raising, page 347. So I'm not the first person to call lyndon johnson a murderer. The governor of texas did and he did it his face. Robert car row on l.B.J., and by 1941 the major patterns of his entire life are established and clear. In obtaining this influence he has displayed a genius for discerning a path to power and ruderlessness in destroying obstacles in that patted and a seemingly bottomless ability for deceit, betrayal and moving it along. Let's put it in other terms. If you were a political opponent of lyndon johnson, he would consider you a chicken and he would wring your neck. Arthur she isinger, he had dinner in 69 with bill moyers, jack volente, and others. I'm quoting from arthur she isinger's diaries. We talked a bit about the problem of writing about johnson. Bill said, that's moyers, as he has said to me before and did say more often, that the one great trouble that no one would believe it, he said that he could not see how one could write about johnson the private monster and johnson the public statesman and construct a credible narrative. He's a sick man, bill said. At one point he and dick good win became so concerned they decided to read up on mental illness. Dick read up on paranoia and bill on the manic-depressive cycle. Lyndon johnson was a very sick, evil, depraved man. George reid wrote a book called lyndon b johnson a memoir that came out in the early '80's. He called l.B.J. A bully, a sadist, a lot and egoist. D I'm being kind on johnson right now.

[06:25:51]

[ Buzzer sounds ]

>> Mayor Leffingwell: Your time has expired. [Applause] jesse allen? Topic is a new business idea. You have three minutes.

>> My name is matt McCLEARRY. Jesse allen is my business partner for this venture.

>> Mayor Leffingwell: I'm sorry, we're not allowed to change speakers.

>> Okay.

>> Mayor Leffingwell: So you will have to sign up next time. Those are our rules for citizens communication. You can't donate time and you can't substitute speakers.

>> Okay.

>> Mayor Leffingwell: We'll look forward to hearing about your idea some other time. Ronnie reeferseed. Peace, liberty, fluoride and the ongoing kill grid.

>> I'm ronnie reeferseed. Singing hallelujah, praise god, I'm a proud parishoner at bee creek united methodist church and today I'm sharing some info with all of you about one example of real love and the (indiscernible) shared with our world. If we could show the

-- I've got two things up there. And this is about this second annual fund-raiser that will be really fantastic. This is on saturday, april 27th and it's to benefit

-- I'll tell more about what it benefits, you can see the artist there, the entertainment lineup is sarah hickman. 2011 official state musician of texas. And the vocal group of the year at the 2011 texas music awards. Two bit palomino will be there and bob chiefers, texas music awards, 2011 singer song writer of the year. And the low cost is \$30 a ticket. Kids under 10 for five. And that includes these outstanding musicians, a barbecue dinner, silent auction, raffle and a fun night with family. It's great. I love the people of my church and I'm really proud of them and that's what this thing is all about. I wanted to show the other slide now if I could about the

-- what's called the guatemala mission team. And it's something that our church

-- it's a tiny church. We don't have a whole lot of money, but we're trying to help save our world. So let's all do what we can to help stop the killing and like I said, it's a mission in guatemala where they

-- a school was just add and now it's gone from 26 students to over 150 students. Again, I'm really proud to be part of it. And so talking more about here at home, let's stop our ongoing suicide shall self-poisoning by stopping use gm o's, chem trails, msg, so-called fluoride in the toxic sludge water. And let's all do what we can to stop the killing from our nation's ongoing war on peasants, which is part of what I feel this thing about guatemala is all about and here at home and worldwide. Guatemala is just one country under which we've waged war for decades and killed many of their leaders and poisoned many of their families. Let's all ask so-called president, so-called peace prize why we taxpayers all have to pay for killing men, women and children and babies you will over the world. And afghanistan, somalia, sudan, mexico, the u.S.A. You know about his power to kill anybody he wants now. I mean, it's nightmareish, people. And why do we have

-- my question is all over the world, why do we have to keep kill people? Why are we exporting abortion worldwide? I mean, that's evil. It's absolutely evil. Let's all work hard to stop the killing.

[06:30:06]

[ Buzzer sounds ]

>> Mayor Leffingwell: Okay. Thank you, ronnie. Paul robbins? City issues.

>> Council, in yesterday's statesman there was a story stating that there was an imminent settlement of austin energy's rate case. The proposed settlement will be brought to council at a specially called meeting tomorrow. Unfortunately the public details of this proposal do not exist. When I checked the council's website this morning at 8:00, there was nothing posted. The details of the news story were sketchy, but at least two different conclusions could be drawn from the story. The the first is that we are cutting a deal with the 13% of austin energy rate payers that live outside the city limits. And that this deal will be a discount to them and no one else. If this is true we would be treating the majority of austin ratepayers, who happen to work for, as second class citizens. So r. Since austin is already paying out of city ratepayers a three% franchise fee there's not a great rate of return left, maybe five percent. So any discount that you give them below this will be literally below the cost of generation. And if this is the case, we'll be serving them below cost

-- if this is the case in serving them below cost, why serve them at all? I personally conducted a survey of the top 100 cities in texas. 71 of them have public utilities that serve outside their city limits. None of them give rate breaks to out of city customers. 61 out of these 71 charge their out of city rate payers more. Why

-- think about this, council. Why on either would an out of city ratepayer want to participate in your new board that you're planning if they can get discounts being regulated by the p.U.C.? Think. What will this do to flight if you're incentivizing people to live outside the city? The other alternative is if you plan to lower rates for everyone because the settlement concedes the overall rate case is not justified. I admit I don't know because of the highly secretive nature of the proposal. I am not opposed to settlement, but giving special rate privileges to out of city ratepayers is not in the best it of austin ratepayers or the utility. Nor should you be compelled to vote tomorrow. The final decision on this case is probably

-- is definitely weeks away and probably months away, so there is plenty of time to negotiate.  
Good afternoon.

[06:33:17]

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: Mr. Robbins actually spoke at audit and finance yesterday and asked the same question. And that was what about having information about the settlement posted on the website so that folks could have a chance to see the overall settlement. And I did ask my staff to connect with our legal department to see about getting things posted, and i wonder if legal could comment on that? I'd be glad to capture what I think came back from legal department and I believe what came back was it's our practice not to post settlements ahead of time. And so I would want to confirm that and also see if we couldn't talk about some way that some information could be made available to the public because I think it's obviously an item with a lot of interest in the community.

>> Mayor Leffingwell: We'll let the attorneys comment on it.

>> Councilmember morrison and c afraid i am not prepared to speak to that issue at this time. I'm not familiar with the position on that matter. And further, because this specific item isn't posted on communication as the subject matter item, I would recommend that that be deferred to a different agenda date.

>> Mayor Leffingwell: Thank you for mentioning that. We really can't discuss it.

>> Morrison: That's great. So just to say that I will follow up with our staff there in the chamber right afterwards when we get a break.

>> Mayor Leffingwell: Carlos Leon. Stopping chem trails. Truth be told. Ask God for forgiveness. Read scripture, pray.

>> Thank you, Mayor Leffingwell. I am Carlos Leon and I am here February 28th, 2013, to speak for what's right. Unfortunately chem trails were prominently sprayed across Austin skies February 26th and 27th, unlike the global warming farce, this inconvenient truth continues to poison Austin's oxygen and air and threatens to poison the Austinites and our air, land and groundwater. Like the terrible fluoride in Austin's water, chem trails are an ecological attack on humanity as a whole. Why are they spraying up there? These are just one salvo in a spiritual war going on here and now. A growing number of us have unplugged from the matrix and realized that evil is attacking us simultaneously on many fronts. If we want to defeat it we have to fight back with the truth and ask God for assistance. Currently our acting president, Barry, Barack Obama, constantly says one thing to allegedly help build up our country, yet does the complete opposite to destroy us in practice. For example, he created a jobs council to allegedly help stimulate job creation to improve our economy. Yet the truth is the council is not even meeting once in the last year and is now dissolved. Where are the jobs? Where are the results? To understand this disconnect we go back to his own words. In 2006 he wrote supposedly, I serve as a blank screen on which people of vastly different political stripes project their own views. You have to understand what that means. Look how dangerous that is. By being a blank screen that means when people project themselves on to Obama, they're not seeing him, they're seeing themselves and what they wish him to be. That means that what his actual record contradicts what he says, the people have to actually contradict themselves. They have to reject their own views because they've done this. This is extremely dangerous. And this is why things are so all reversed and inverted today. You know it used to be Bible-fearing folk, you wouldn't lie once because you know if you were caught in one lie your integrity was finished. But today it's like Obama can lie 99 times, but he says one thing that supporters like and they give him a pass on the 99 lies. That's completely wrong. Look at what else he said recently. He also tried to stop us from our American values of being self-sufficient and moving forward when he says, if you've got a business, you didn't build that. Someone else did. Are you kidding me? Then he said recently, you can't do that by yourself. That's how our system works. That's maybe how he thinks and how his system works. I reject his ideas. I reject his nonsense. Look, we have to restore sanity to our republic and think again and do what's right and ask God for assistance. Thank you very much.

[06:38:20]

>> Mayor Leffingwell: All right. Council will now go into closed session to take up three items. Pursuant to section 551.071 of the government code, the council will consult with legal counsel regarding the following: Item 51, legal issues related to the November 6, 2012 election. Item 52, legal issues related to the P.U.C. T docket number pretty 627 petitioned by homeowners united for rate fairness to review city of Austin rate ordinance. Item 53, legal issues related to appeal number 03-12-00529-cv, Forest North Spring Woods Co-op Recreation Association versus the city of Austin. Noting that item number 50 is withdrawn and will not be discussed. Is there any objection to going into executive session on these items? Hearing none, we'll now go into

executive session.

[08:34:57]

>> Mayor Leffingwell: Legal issues related to items 51, 52 and 53. With that we're going to go to our zoning cases, our 2:00 zoning cases and do the consent items only. After the consent items we'll go back to our austin energy briefing and complete that.

>> Thank you, mayor and council. Greg guernsey. Several items I can offer for consent and I understand two of the items I'll skip but note along the way as being pulled I think by councilmember morrison. First item is item 54, case c 814-2012-055 for property located at 6714 covered bridge drive. We offer this for staff postponement until next WEEK, MARCH 7th. Item 55, c 14-2012-0097, i understand councilmember morrison would like to discuss this item so I'll skip that item. Item 56, case c 14-2012-0113 for the property located at 7003 east riverside drive to zone the property to townhouse or sf-6-co-np. We would offer this for consent approval on third reading. Item 57 would like to be pulled by councilmember morrison. Item number -- the following items then are zoning and neighborhood plan amendments for the public hearings are open, possible action. Item 58, c 14-85-288.45 (rca 2) for 6714 covered bridge drive. Staff is requesting a postponement of this item to your march 7th agenda. Item npa-2012-0021.01 for property located at 1100 manlove street. Staff is recommending postponement. Case npa-2012-0023, .01. Postpo APRIL 25th. Item 61, for the property located at 3511 manor road, staff is requesting postponement to may 23. The related item, 62, c 14-2012-0140 for the property located at 3511 manor road, staff is requesting postponement also of this item to may 23. Item 63, c 14-2012-0083 for property located at 800 west sixth street and 602-702 west avenue, the applicant is requesting a postponement of this item to your march 28th agenda and that's ready for postponement of that item. Item 64, c 14-2012-0141, for the property located at 100 east north loop boulevard, this is a joining change request to commercial liquor sales, conditional overlay for tracts 1 and 2. The planning commission's recommendation was to grant the cs 1 co combined district for tracts 1 and 2 and this is ready for consent approval on all three readings. Item 65, c 14-2012-0142 for 10817 fm 222, this is to zone the property to community commercial or gr district zoning. The zoning and platting commission recommendation was grant the zoning and this is ready for consent approval on all three readings. Item 66, c 14-2012-0144 for the property located at 4504 north fm 620, to rezone the property to public or p district zoning. The commission's recommendation was to grant the p district zoning and this is ready for consent approval on all three readings. Item 67 is c 14-2012-0147 for the property located at 2025 east 7th street. This is to zone the property to general commercial services, mixed use, vertical mixed use building, conditional overlay plan or cs-mu-co-np. Planning commission recommendation was to grant the combined district zoning. Actually this is a staff POSTPONEMENT TO MARCH 7th. Excuse me. On item 67. Item number 68, case c 14-2012-0155 for the property at 1310 kramer lane. This is to zone the property to limited office or l.O. District zoning. The recommendation was to grant lo-co with conditions. This is ready for consent approval on all three readings. Item 69, case c 14-2012-0157 for 13422 dessau road to zone to commercial liquor sales. The zoning and platting commission recommendation was grant commercial liquor sales conditional overlay for tract 1 and gr-co for tract 2 with conditions. And this is ready for consent approval on all three readings. Item 70, c 14-2012, 0146 sh for the property located at 1044 norwood park boulevard to zone the property to commercial highway

neighborhood plan or ch-np. Staff is requesting POSTPONEMENT TO MARCH 7th. And finally item 71, case c 14 h 2013-0001 for the plot located at 2209 east 14th street. This is to zone the property to public historic landmark, neighborhood plan or p-h-np, combined district zoning and it was recommended to you by the historic landmark commission and the planning commission. And mayor, on this particular one, I'd like to invite steve up to give you a brief presentation on it. I don't believe anyone is in opposition, but we thought this was a unique case and wanted to let steve to have an opportunity to briefly tell you about it and take this item on consent.

[08:41:46]

>> Mayor Leffingwell: Very brief. Or else we can pull it off consent. Just let me know.

>> It will be very brief. Steve.

>> Mayor Leffingwell: Go ahead.

>> Good afternoon, steve sadowsky. I'm pleased to bring this case to you today because this is our black history month case that was recommended by staff and the landmark commission. It involves the old david chapel missionary baptist church which is now the st. Paul baptist church at 14th and chestnut street. This building was built in 1940 and it was the second home of david chapel of missionary baptist church which had its origin in 1924. David chapel moved to its current location in 1959 and then st. Paul primitive baptist church took over this building and they've been there ever since. The current congregation was founded in 1957. Both congregations have been prominent in the city's african-american community and the city as a whole and the staff and planning commission recommend this building for historic zoning. This is a city sponsored case in celebration of black history month.

>> Mayor Leffingwell: Okay. Thank you.

>> Thank you, sir.

>> Mayor Leffingwell: And that's for consent on all three? Okay. So the consent agenda is as -- pardon?

>> [Inaudible]

>> Mayor Leffingwell: Well, it's on. Test. Can you do something down there? It's not even battery powered anymore. There's sound, but evidently it's not loud enough. Got it now? Okay, good. So the consent agenda is postpone item 54 u MARCH 7th, TO APPROVE ITEM 56 on third reading, and to close the public hearing

-- excuse me, to postpone item 58 UNTIL MARCH 7th, Postpone item 59 until MAY 23rd, TO POSTPONE ITEM 60 UNTIL APRIL 25th, TO Postpone item 61 until

-- item 61, 62 and 63 until MAY 23rd

-- EXCUSE ME, 61 And 62 until may 23, 63 UNTIL MARCH 28th. To close the public hearing and approve on all three readings item 64, 65, 66. Postpone 67 until MARCH 7th. Close the public hearing and approval on all three readings item 68, 69. To postpone item 70 until MARCH 7th. And that's the consent agenda. I'll entertain a motion.

[08:45:11]

>> [Inaudible]

>> Mayor Leffingwell: 71 to close the public hearing and approve on all three readings. Add that. Councilmember Spelman moves approval. So moved. And mayor pro tem Cole seconds.

Discussion? All in favor say aye. Aye. Opposed say no. Passes on a vote of 7-0.

>> Thank you, mayor.

>> Mayor Leffingwell: We'll go back to our Austin Energy briefing. The briefing part is completed so now it's open for council to ask questions. And I believe Councilmember Spelman was first.

>> Spelman: Mayor, I'm not quite prepared. I believe there are other councilmembers who had questions as well.

>> Mayor Leffingwell: Everybody's volume is down a bit it sounds like.

>> Spelman: I'm not quite prepared, mayor. I believe there are other councilmembers who are better prepared.

>> Mayor Leffingwell: Councilmember Morrison.

>> Morrison: Thanks for the information. I wanted to go back to

-- just one thing that caught my eye on slide number 5. It's the customer solar systems located. Locations. And you've provided us a map of those. And what I was

-- do we still have that

-- the briefing from Austin Energy available? Because what I wanted to point out was the low density of solar system locations east of I-35, particularly southeast of I-35. And I wonder if there are any particular outreach marketing programs that we have that are sort of geographically based so we make sure everyone has an opportunity to take advantage of these good programs we have, so especially in southeast Austin but in general east of I-35 we seem to have fewer of them.

>> Larry Weis, Austin Energy general manager. In our marketing efforts we are not regionalizing them to support, but on the flip side we do have that problem in some distribution circuits we're starting to evaluate where we may have too many solar systems on certain circuits, but that's a technical issue. But we're not doing any marketing to specific areas where we know there are no participants.

[08:47:38]

>> Morrison: So just, staff, as you get a minute, I'm talking about slide number 5 on Austin Energy. And I was pointing out on this map especially east of I-35 there are fewer, and I wonder if maybe you or your staff could give some thought as to whether it makes sense, especially since you are looking at areas that might be overload, if it makes sense. You have different kinds of neighborhoods in different parts of town and the marketing strategy might need to be different in different parts of town for it to be successful. I wonder if you might be willing to take that back and give some thought to that possibility.

>> Yeah, we sure can. I will tell you that if you read much about this subject, there's also the opportunity to lease a solar system and so we're investigating that. So in other words, if you can't afford to have one, you might be able to enter into a lease. And they are quite popular in other parts of the country so we're evaluating that as well.

>> Morrison: We haven't done that yet but you are talking about

--

>> right. I think in a solar committee report I think that's one area we were supposed to take a look.

>> Morrison: I would appreciate it if you gave it some thought. It might have been my visit -- councilmember riley and I went down and visited saws and I think I'm remembering right, obviously it was simpler things like replacing toilets, but very customized marketing depending on the neighborhood. So I think we might be able to share the benefits if we do that in a more [inaudible] way.

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: Just a couple of little questions. I have the same question with respect to the solar systems locations. Approximately what percentage of all the solar systems locations that have received incentives are located outside the city limits; do we know that?

[08:49:38]

>> We could find that out. I don't have the statistics, no.

>> Spelman: It looks like somewhere between 15 and 20%, which is about where you would expect it to be.

>> Well, again, those

-- if you look really close, there's every different icon or symbol is a different size so depends whether you want to look by megawatts or look at it by system. But we could do it both ways. It would take us a bit to do it, but we could do it.

>> Spelman: I'm not in a particular hurry but it would strike me it would be good to know that information. This is more of a rhetorical point but I think it might have symbolic value downstream. On slide 4, you were talking about the new windows coming online and there was one day you said last year where we were using an enormous amount of wind and solar. As I'm given to understand, there was a day when most of the energy we were generating was actually being generated by renewable resources.

>> That's correct.

>> Spelman: Do you remember what day that was? I think that may be a day we want to remember.

>> Yes. Loads were down. Those resources were up. So that's

-- that's the combination when that can happen.

>> Spelman: And the wind bass blowing in the gulf and

--

>> particularly south texas. In fact, I think one day i heard where, again I have to double-check, but I think the capacity of all the wind farms in texas was almost at 100% because it was a very unusual situation.

>> Spelman: Am I right in believing that had never happened before that day? That's the first day we've ever generated more than 50% from renewable sources?

>> I'm sure that's probably true because we just added these new wind resources and a number of resources we've added over the years.

>> Spelman: Okay. I don't know whether you bring out champagne and cigars, cigars for the mayor, champagne for the rest of us, but it might be a day we want to remember. I would look forward to being able to celebrate that time this year. I have another question for you and

actually this might be for ann. With respect to the budget. As I understood slide 19.  
[08:51:59]

>> Uh-huh.

>> Spelman: We are running at much less of a deficiency in actual 12 than we expected to. And the biggest reason it appears to me because our nonfuel operating expenses are down by about \$8.5 million. So that seemed to be the biggest element in that reduction in the deficiency from almost 20 million to just about 8 million.

>> Right. Right.

>> Spelman: Is that a one-time only thing or is this a recurring expense reduction?

>> Well, I

-- I'll have to get back to answer. Ann is not with me right now. But I will tell you that our fall and winter was very mild and so there was an off set in terms of our operating costs of generation and other purchases that we make. But I'll get back to you on that and give you the details.

>> Spelman: I notice the fuel costs are a little lower. I would expect fuel costs to respond much more to weather and to load demand than other things. But it did strike me, nonfuel is even down and a lot and if this is vacancies which could be unfilled for a short period of time but have to be filled later on, probably we cannot expect that to happen in the future. But if this is a real reduction in expenses which is likely to recur for a while, then

-- that tells us something different about our financial position.

>> Well, given that it's first of march almost, we'll be back for another quarterly report in april because we're behind that much. So we'll be back.

>> Mayor Leffingwell: Three months from now.

>> Really? Whatever your pleasure.

>> Spelman: I look forward to hearing from you. And actually in the april report we'll have something.

>> Right. That's what I was going to point out. There might be more meaningful data because when you start at the first of a quarter, as you roll through the year, you know, that's the way I look at it anyway.

>> Spelman: So it may be more

-- we'll have more substance on what it is we can reasonably expect moving forward.

[08:54:04]

>> Right. And it will be a work session and we'll accomplish it thenoo.

>> Spelman: If you can find out that day, I'll buy the mayor a cigar.

>> Mayor Leffingwell: I'll buy you a pack of cigarettes. So I think it's a good thing that we had a day where the majority of our power used was from green sources, mainly wind. But I think that we need to manage expectations a little bit and realize this is wintertime and we're not using that much electricity, and more over we've had a mild winter so those few people around who use electricity for heat probably weren't using that either. So just putting it all in context. I hate to throw a wet blanket on it, but I'll look forward to the day when you can say that about a summer

day. Councilmember riley.

>> Riley: Thank you, mayor. I just want to ask about one thing, the generation plan you discussed on page 7 of your presentation. And that

-- the goal set out on page 7 appropriately are the ones that we had embraced in the plan back in 2010. But as you recall, we went through a process last year where we pulled together a bunch of folks with interests, various interests in solar representing autopsy different aspects of the solar industry. And the idea was to take another look at our solar goals and see what to do about them, whether we wanted to

-- how much of our solar goal we wanted to have locally, how much it should be distributed generation versus utility scale and a number of other things. And went through a long process and came up with a set of recommendations last november. Now, those recommendations are not currently embedded in the generation plan and i just wanted to hear from you about whether we are still taking a look at

-- at

-- at the work of local solar advisory committee. I realize there are going to be a number of issues that we're going to have to sort through to make sure that we're able to work towards those goals while still adhering to the other goals we've sat out with respect to affordability and other things, and so this may be a continued conversation. But I just wanted to make sure that we're still going through that and looking carefully at the work of the local solar advisory committee figuring out how we can adjust our solar goals while still respecting the other goals that we've discussed related to affordability and other things.

[08:56:38]

>> Yeah, I assure you that we are evaluating the solar report from the committee and in that report there are three targets that were identified and they contain some challenges, I'll be frank, in the upper regions of that because one of our constraints, of course, is being affordable. And so -- but solar prices have come down considerably. And so if they continue to go the direction they are going in, we'll be able to achieve a higher solar goal at affordable rates. So that's my hope. We are putting a plan together and I mentioned earlier that we'll be doing a request for proposal for utility [indiscernible] projects which will be part of that but there's an expectation that a lot of these solar resources we get will be from consumers. Well, as we were discussing earlier, marketing to our consumers and where those solar projects come from is really not the utilities -- we can't direct customers to put it in so it's about marketing, working with our partners which are the solar industry to make sure we incentives out there and customers are willing to participate. Having said all that, i think what we would like to do is analyze it further and give -- we were asked to have our viewpoint, staff's viewpoint of the solar goal. I think the goal of the electric utility commission, so we'll come back for that and we'll also have to come back -- I don't remember the date, but we have to come back to council and update the generation plan. So this is not exactly your generation plan that was adopted. We have adapted it strategically to fit some of the things happening but we'll have to look at that. You are right about solar goal, we'll have to resift that.

>> Riley: That is an ongoing process and we'll be hearing more about that in the future.

>> Yes, sir.

>> Riley: We've had some discussions about that at the council reemerging technology and to the

extent that would be helpful to talk through some of the issues because I understand there are a number of challenges associated with implementing those recommendations. But the important thing is just to make sure that we keep working on that respecting all the work that went into the plan and then keeping an eye on the changing conditions within the solar market today and seeing what we can do to make further progress in many could go months. So I appreciate your work on that and an aisle look forward to that continued conversation about that in the months to come.

[08:59:19]

>> Mayor Leffingwell: So something you just said reminded me of another question I had. There's a slide on there that shows our affordability goal and the actual progress, but there's actually a part 2 to that affordability goal and we will remain in the -- all utilities statewide. And when we adopted that, the discussion went along these lines, well right now we're in the bottom 40%, but you suggested that we go to 50% just to give us a little bit of wiggle room there. But there's also discussion around why the need to have that goal paired with the 2% goal, and as I recall that rationale was because where are we if for some reason some other kind of power generation became very, very cheap, let's say the price of natural gas dropped by -- in half, for example. That would probably put us -- if we didn't do anything, it would put us out of that 50%. So not only would we be constrained to a lower rate than 2%, we might even be constrained to reduce our rate unless the council took some action to revise that policy. So number 1, I guess I would ask if you have any comments on that. And number 2, I would like to see that discussion where are we know with regard to the 50% goal as well as discussion on the 2% goal.

>> We can

-- on the last point about where we stand relative to the rest of the utilities in the state, we could certainly bring that back in the next quarterly report.

>> Mayor Leffingwell: Be good to see what the trend is.

>> With respect to the affordability discussion, that's right, we kind of talked

-- in my mind, talked about the three legs of the stool. We've got to meet

-- we want to meet our goals of climate protection, be affordable, and at the same time we have no more than 2% a year. So we did all that before we went through the rate work that we did.

And now we're in a place where we have that done and we can start forecasting. And as we start forecasting out forward, we are using the 2% per year, not greater increase than that, to our total revenue. We are using that in all of our modeling for resources. In other words, if we bring a solar system in or bring different pieces of generation in or some new device or whatever it might be for energy resources, we put that into our models and use a constraint that we cannot raise revenue by more than 2% a year to pay for anything.

[09:02:10]

>> Mayor Leffingwell: Right, I hear that but I'm talking about the other p there are two affordability

--

>> you are talking about where we fit in the state with the rest of utilities.

>> Mayor Leffingwell: Yes.

>> I can bring that back in the next quarterly report. And how we compare other financial metrics with other utilities.

>> Mayor Leffingwell: We see the rationale. The idea is that austin energy remained competitive in a price structure as well as competitive in other ways, reliability and so forth. But if everybody else's rates dropped and we didn't drop along with them, then we wouldn't be competitive anymore. So that's why

-- the reason for that relative affordability goal. So we'll look forward to hearing in april on that. Anything else? Okay. Councilmember tovo.

>> Tovo: Just very quickly, I wonder if you could talk quickly, you referred to it in your presentation, but I wondered if you could get into a few more specifics about the south texas nuclear project and the difficulties it has experienced in the recent months and what kind of financial impact that might have.

>> We're still evaluating the financial impact. I will tell you the power market in texas now is very flat, very inexpensive. So the power that we're buying to replace south texas nuclear is at a very good price. So the outage frankly came at the right time of the year and the right time of the market. But what happened was the fault of a transformer that failed and it's a very large transformer. We don't have spares of those sitting around. They are huge. And so what happened is that that transformer failed, and when it failed, the steam generator that runs that generates electricity, it had what we call is a fast stop, it ran to a stop very quick without control and there may be some damage to the shaft. And the only way they know that is they have to take it apart and look at it. So that's what's happening there, and they hope that they are going to have that back and

-- hopefully it's nothing wrong with it and they will get it back on line and have it back in by may of this year. But the cost impact we're still evaluating, depends on when it comes back and everything and that will be, of course, recovered from our fuel charge as it was in previous years. [09:04:45]

>> Tovo: What about the cost of repair? Do you have an estimate of what that might cost?

>> I do not. But I can bring that back.

>> Tovo: And is that connected to the fire in january?

>> It was

-- it was the same thing. When the transformer fails, there's a fire. Yeah.

>> Tovo: Okay. Thanks. So we'll see those numbers in april. Thank you very much. As I recall, you can't recover the cost

-- can you recover the cost of the repairs in the fuel charge?

>> Actually we have

-- we have insurance for that. There is

-- there's a lot of insurance associated with the plant as well. So we can bring that back. I could probably have share come up here, sits on the board at the nuclear project and she's got a lot more detail on it.

>> Tovo: Thank you.

>> Mayor Leffingwell: Okay. Thank you.

>> Thank you.

>> Mayor Leffingwell: So keel go back to our morning consent agenda, and I pulled two items that I think will go quickly. I just have quick questions. We have one speaker, ronnie reeferseed. First of all, I don't know if we have staff here to answer this question, but i would ask, is this contemplating city facilities like the convention center, for example? Who would we get to answer that question.

>> Morrison: Mayor, since I wrote it, maybe

--

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: It does contemplate coming back with a recommendation that affects some of them and we have asked specifically to

-- to provide at least one option that provides a, you know, the 100% healthy option. I assume that one for sure would affect it, but we asked just in general for recommendations because we realize it might not be practical to transition all at once.

[09:07:04]

>> Mayor Leffingwell: I guess I would ask is this a totally unplanned for consequence or did you envision possibly converting the convention center to

--

>> Morrison: It definitely envisioned the possibility of including the convention center. In fact, this is in response to a sustainable policy board recommendation and their recommendation said come up with a way to just do it 100% across the board. We tried to back off that a little bit and say just bring us recommendations and include one option that is 100%. It's not a surprise that they are thinking about that.

>> Mayor Leffingwell: Even so I would have a major concern about, you know, a lot of analysis, and I guess I would like to go to record as saying when staff goes through analyzing this, you real have to consider the effects, economic effects even on a big facility like the convention

-- how does that affect our

-- I have a feeling people aren't going to want to book into a convention and come down and be served a dinner of tofu and gluten free bread.

>> Morrison: I think there might be other options and still be healthy. We have the constraint we have contracts for catering in place so it's not like we can just

--

>> Mayor Leffingwell: I just want to go on the record I want that to be a big consideration, what are the unintended consequences of this, what are the peripheral effects to big city facilities like the airport, like the convention center, city hall, for example, lunch for councilmembers, for example. Those are some things I want to be taken into consideration as we go through. That's all I have. I'm not going to make a motion. Councilmember martinez.

>> Martinez: Yeah, I just wanted to also be very clear this is just creating healthy options. If you are for personal choice, there's no way you would

-- I couldn't see how you would be against this. I don't want to say there's no way because you will find a way, but it just creates healthy options. And with the language that councilmember morrison has offered, it creates one option that would be 100% healthy. This doesn't ban healthy

anything from vending machines, it just adds to the array of trying to get people, one, trying to understand that choosing healthier is a benefit to themselves and to our community and laying those options out via a healthy food policy. It doesn't mandate anything nor does it remove anything that currently exists.

[09:09:47]

>> Mayor Leffingwell: I certainly don't want my comments to be construed as being against healthy food. I am for that and I want to encourage it in every way that I can, but there are -- there are effects. And if this policy were mandated in vending machines citywide, I just want to read an email from a city employee. Doesn't identify which department he or she works in, but it says they use their vending machines there to financially support other common needs at the facility that benefited all the employees there. And so their experience has been they brought in healthier options, they didn't sell, so they stocked them with what they would -- consumers would buy, and I'm not going to read the whole thing, but it makes the comment if you remove them -- these products from the vending machines, folks will just bring them in from home and won't buy anything and they won't derive the financial benefit. So I just hope all that is taken into consideration. Councilmember tovo.

>> Tovo: I received it and read it and had a question and I this this is for staff. There was a media report about this resolution that i thought made a statement about the vending machine income not accruing to the city and I don't know if we have a staff member here who could speak to that or maybe the sponsors know who gets the revenue from our vending machines. Is it an outside company or are individual departments able to use that revenue for special programs.

>> Mayor Leffingwell: Do we have a staff person?

>> Robert king with health and human services department. Al staff liaison. The city has a blanket contract negotiated with the vendor that it is a revenue neutral agreement. So the vendor comes in, provides the items in the vending machine, stocks them, services the machine. The city does not get revenue from those machines.

[09:11:59]

>> Tovo: Okay. Thanks.

>> There is

-- there are departments who can go outside of that master agreement and procure their own vending services contract on a revenue based system and there are a couple departments in the city who do that.

>> Tovo: I see. I appreciate that because i had

-- you know, I couldn't reconcile that information with the email that we received. And it's not really relevant to the subject matter of the resolution that's before us, but I was just curious so i appreciate that explanation.

>> Mayor Leffingwell: I think it would depend on what comes back as a recommendation. Outside noncity vending machines could be affected. They could be prohibited potentially and I think that would be probably something we don't want to do. I wouldn't want to anyway.

Councilmember morrison.

>> Morrison: Thanks, and i appreciate you pulling this because I think it's a good thing to discuss overall. I am

-- you know, I had not included originally the option for 100% and I did then once you started hearing from board members that say hey, we really think it should be 100%, but I'm glad that we've got i flexible in there because i think it's going to be real interesting to look at what 100% version of it would be and give us the opportunity. I doubt that it's going to be practical by any means, frankly, but it will give us the opportunity to really get a sense for what that would look like and maybe put something in place so we could transition from one stage toward that as a goal. And I do

-- you know, I've read some great stories about transitioning vending maines where, you know, without

-- without any decrease in the

-- in the business that vending machine did merely by adding healthy options and then by also interestingly if you just place the healthy options at the top, you know what I'm talking about, right, and there's some real simple things that can be done that can make a big difference in people's choices and indirectly in their health. So I think this is a good

-- good step and I appreciate health and human services i know the department has actually adopted a 100% vending machine healthy option. Is that correct?

[09:14:16]

>> Yes, that is correct. It went into effect this past november. We did implement

-- we did transition from a 50% healthy vending machine option to 100% effective this november.

>> Morrison: How is that going? Are you hearing grumbling?

>> Actually we've heard positive from the employees as well as positive from the community members who go and get services at our neighborhood centers and wc clinics they enjoy going to the vending machines and not having to worry about what items their children are going to be purchasing or asking for that they know it is a healthy option for them and nutrition.

>> Morrison: And do you get some complaints too? Be honest.

>> I am being honest. We have not received any

-- any complaints from staff. We actually received encouragement from the cmunity from our constituents beforehand to

-- to roll it to 100%.

>> Morrison: That's terrific. Thank you. Move approval.

>> Mayor Leffingwell: Motion by councilmember morrison to approve item 39. Seconded by mayor pro tem cole. [One moment, please, for change in captioners]

[09:16:31]

>> Mayor Leffingwell: I would make a similar comment that we want to be

-- provide that kind of flexibility to our employees and make sure about the unintended consequences in big city facilities. I'm going to support this motion and it depends on what it

looks like when it comes back as to whether i will support the actual recommendations as a result of this resolution.

>> Cole: Mayor? I only had one complaint that this motion didn't require us to do the michelle obama dance. [Laughter]

>> go for it.

>> Mayor Leffingwell: There's the floor. There's the floor.

>> Cole: That's okay. I'm in full support.

>> Mayor Leffingwell: All those in favor, signify by saying aye? Opposed say no. It passes on a vote of seven to zero. I pulled item 39 just for a quick question. And that is it seemed to be that the resolution

-- we do have speakers too, by the way. But it seemed to be that the resolution was directing something that might

-- there's a groundwater challenge out there and it said go have a deep pool with a diving board. And I'd like to get the staff's preliminary comment on that. I know this is only an ask to go out and evaluate options, but often times we start down this trail and it's harder to get back. We'll go to the speakers first if it's okay. Rick karaniak.

>> Thank you, mayor and councilmembers, for the opportunity to speak on this. I think what has happened here is when the groundwater was discovered and construction was halted on the rebuilding of the bartholomew park swimming pool, some questions came up about the design that i think had not been aware to a lot of the community before that. And the major one was the depth of the pool, the new pool, being somewhere between four and a half feet maximum. And so there's somewhat of an equity issue between

-- for this part of town and having the kind of pool that the rest of the city or other areas of the city would have. So I think that's one of the bigger issues that is being faced here. So it's

-- I understand that this is a resolution just asking for the community and there's no money involved here. I encourage there to be some community input. I think that's already underway.

There are meetings that have happened, there are meetings that will be coming in. I'm not representing anybody other than myself here right now. I know the windsor park neighborhood association is involved, the windsor park neighborhood contact team will also be holding a meeting on this issue. And so there's some input yet to come. But the big thing is that once we figure out what it is that needs to happen here, I will hope that the council will get this fund and quickly and that we will got not

-- we're going to go one more year without a pool. Let's keep it to that. That will be I think five swim seasons that northeast austin has not had a major swim place. So I want to thank councilmembers morrison and tovo for this resolution and for your active involvement in this particular issue. I want to point out that there's going to be

-- much like I live closer to the coming h.E.B. At mueller than most of the current mueller residents, there will be a lot of mueller residents right across the street from this that will be closer to this pool than the pools within mueller. So it's an important pool. Thank you.

[09:20:28]

>> Mayor Leffingwell: I agree with you, it's something that would be highly desirable, but this will be a fiscal note come back with the recommendations by the city manager.

>> Cole: Mayor, I have a comment.

>> Mayor Leffingwell: One other question. Did you have a question?

>> Cole: We'll wait for the next speaker. That's okay.

>> Mayor Leffingwell: All right. Orielia garza del cortez.

>> Good afternoon, mayor and councilmembers. My name is [saying name] and I am here to speak on behalf of myself and the residents of this pool. It's really very shock and awe to hear that one more time we will not have our pool. It has been years since i have had a chance to swim in the pool that I pay taxes for. For us to have to resort to go to other pools is really unacceptable, especially since I'm paying double. I pay double to have the pool built at mueller and now I'm paying double to have a pool that I can't use. So I'm curious to know where's the accountability here? What happens? And when are we going to get our pool? Why is the city of austin, you know, can build

-- can participate in building fl in a shorter time has we built it, why can't we get a pool in our neighborhood. I am asking you to fast forward this to look into it and if it's not going to be open by the children get out of school I think it's important that we figure out alternate solutions. 78723 is a zip code with the highest obesity rates for children and all we're doing is contributing to it because we're not offering programs and exercises for children who really, really need it. So I'm asking you, please, please, please, we're willing to work with you to figure out how are we going to get children

-- are we going to negotiate with the mueller development, the y to get someree passes so kids can have exercise, so kids can go out there and get out

-- stay out of the streets and stay out of the crime and take care of this issue. I as a lap swimmer, I can tell you, four feet is just not

-- it is just not acceptable. It is not acceptable. I look forward to my pool being opened. I don't like going to mueller. And it's not because I don't like the mueller people. I love the mueller people. But what bothers me is that again as a citizen and as a taxpayer that's my pool and I want you to act on this and fast forward it. Fast forward it, okay? Pretend I'm a developer. Fast forward it. Thank you very much. I appreciate you helping us on this.

[09:23:30]

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: I just wanted to comment that staff

-- there have been at least a couple that I've been to, really animated, shall i say, community meetings that staff has attended, and they've done of really

-- i have to give it to them, they've done a lot of really good listening and coming up with alternatives because they're not happy with the situation as it is right now by any means. And are looking for solutions. And they are actively looking for ways to find some temporary swimming opportunities for the neighborhood this summer because they don't think it's acceptable for the neighbors to go another summer. I know that they're thinking about getting the mueller -- the ability to use that pool back in place. It was there just for the first year. And also looking at setting up specific transportation options for families during the summer at certain times. And they were going to be doing a lot of outreach on that to find out what was going to be most useful to the neighborhood.

>> Wonderful. I'm willing to work with the schools to make sure that the families and the parents know that these options are available.

>> Morrison: I believe also to their credit they went to the pta meeting at blanton.  
>> We have a lot of others. Thank you so much.  
>> Morrison: They're very commit and I'm sure they would be love to get you tied in.  
>> Please consider fast track, thank you.  
>> Morrison: I would like to say that I understand they're very committed to fast tracking this and to making it happen. It's been  
-- obviously the groundwater issue that has come up again is a surprise and they have to find a way to mitigate this unexpected groundwater or find a design around it, and I also have to say that fact that doesn't came out at four feet, you know, there are people that will tell you that those are the trends in the world of aquatics, to move towards those. There was a move at outreach and I think they're willing to admit it wasn't as successful as it may have been. That's why looking at a way to fix that appeared get a deep water pool here, you really appreciate how committed they are working on this. And I just thought that it was really important for all of the council to be very aware of what's going on. Obviously there may well be a fiscal impact. Hopefully it won't be too huge to support basically to show our support for the work that the staff is already doing. So that's why I offered this resolution.  
[09:26:12]

>> Thank you so much. Appreciate it.  
>> Spelman: Mayor, I have a brief question.  
>> Mayor Leffingwell: Councilmember spelman.  
>> Spelman: The pard staff person.  
>> Mayor Leffingwell: You can sit down, ma'am.  
>> Okay, thank you.  
>> Afternoon, mayor, council. Jesse varga, assistant director of parks and recreation.  
>> Spelman: I was checking on google maps to check what I thought was true, that the bartholomew pool that is close interested a mile and a half away from the patterson park pool, that is still open, is it not?  
>> Correct.  
>> Spelman: About a half hour walk from patterson park. Some people were saying that the mueller pool is closed to the public and only open to people who live in the mueller development s that accurate?  
>> I can't speak to the mueller development pools operating hours. I can s that we do have in response to our constituents here, we are committed to providing some level of support for the community out there that is inclusive of pool passes so they can access our other facilities as well as transportation allowances as well up to and including a shuttle it was that will take them from the existing bartholomew site elsewhere. Whether it be mueller or we can work out a deal with them. If it's our facility we have full access to that and we will be providing that service as summer comes into play.  
>> Spelman: My aide who lives in the mueller development is under the impression that the mueller pool is open to the public. And you're nodding your head back there. You have some information that I don't have?  
>> Sure. I have tom nelson here, the aquatics manager for parks and recreation.  
>> Yes, the mueller pool does have swim times available to the public. In fact, we're having a

meeting with them today. Staff is having a meeting with them today to see what we can do to  
fayette power sill date some  
-- facilitate some usage at that pool.

[09:28:17]

>> Spelman: Like other pools there are days that it is closed to the public or open for private parties or for teams and things like that only.

>> I believe off the top of my head, I believe they have a time that is just open for mueller residents and they have a time that's open for the public.

>> Spelman: Okay. But better son is open  
-- patterson is open and open to the public.

>> Yes. And we have a pool just down the street, dottie jordan, which is located fairly close.

>> Spelman: Gotcha. Thanks very much.

>> Cole: Mayor, I had a couple of questions.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: What hours is mueller open to the public?

>> I don't have those off the top of my head. I could get you those.

>> Cole: I have a couple of comments. I appreciate councilmember tovo and councilmember morrison for bringing this resolution forward. I know that I have dealt with the windsor village and all these neighborhoods. I lived in wilshire woods are where patterson park is located. And bartholomew park, if i remember correctly, is the highest use swimming pool in the city. And when it closed

-- is that correct?

>> That's not correct.

>> Cole: Is it zilker?

>> It's probably barton springs. Of course, that's a huge use facility. And then it goes probably deep eddy, northwest and trails down.

>> Cole: Maybe that's east austin.

>> Probably so. Maybe he will davis and bartholomew were averaging close to the same amount. Bartholomew was averaging about 250 people a day:

>> Cole: It's a high use park for east austin and it's one of the most diverse pools in the city.

>> That's correct.

>>

>> Cole: And we've had it out of operation for four years. And the other pools that we're talking about, whether we're talking about mueller, patterson or mabel davis

-- or dottie jordan, those are all pools, if I remember correctly, that are a lot smaller than bartholomew. Is that correct?

[09:30:24]

>> That is correct, yes.

>> Cole: So I would think it would be very important that we provide passes and access to those other pools for the summer because we know that when we have young people that don't have

anything to do, we put ourselves in a challenging situation for other things to arise that we don't want to happen. So I know y'all are working hard and I want to encourage you to do that. And I want to say on the record I don't believe that mueller should be a private pool. Thank you.

>> Mayor Leffingwell: It is only private part of the time. It's public

--

>> Cole: But we didn't know the times and I've actually had situations where I've known people who tried to go swim and mueller. I have three boys, and we're not able to go there at peak times a. And I don't want that. And I especially don't want that for the minority community.

>> Mayor Leffingwell: Those are all the speakers we have. Ale entertain a motion on item 39. We have a second on that with councilmember martinez? Who is the second on that? Mayor pro tem. All in favor? Opposed say no? It passes on a vote of seven to zero.

>> Mr. Mayor, I'd like to thank councilmember morrison for personally engaging the community and standing at their side. It's always nice to see when government rallies to the side of the community and pard is excited to work on this project and we will end up with a better pool than the original design indicated. Thank you.

>> Mayor Leffingwell: We've got a couple of items with a lot of folks signed up to speak. Without objection less go to item 40. Pulled by councilmember morrison. And we do have a number of speakers. Ready to go to speakers? Kerry price. All right. I don't see kerry price. Bob easter? Is bob easter here? David king? You will have three manipulate.

[09:32:44]

>> Thank you.

-- Three minutes.

>> Thank you.

>> Good afternoon, thank you. The proposed str amendment has some good except and some components that concern me. For example, under the current permit website amanda, you can't see the property owner name or the phone number. But if you go and pull up another permit for a building permit or a board of adjustments variance you can see the property owner's name and phone number. I think that would be a pretty simple thing to fix until we get the gis system in place to show the locations and the owners. I think that would be important. The other concern I have is that I understand that city inspectors don't verify that a property meets the str requirements until after the permit. That's after permit is issued and someone notices they don't meet it they can lose their license. I think it's important for someone to ask if that's actually the case, and if it is, that that be change sod that they at least check to see that the property meets the minimum parking requirements before a permit is issued to them. The other concern I have is the -- according to the austin post article, FEBRUARY 10th, IT SAYS That it's safe to assume that there are a thousand or more properties in austin available for short-term rentals during south by southwest from march the eighth to the 17th. But if you look on amanda right now you only see a total of 483 str permits issued by the city or in process by the city. So there's a big discrepancy there. I wonder how effective our ordinance really is. And the other concern I have is adding a type 3 str for multi-family properties with a three percent cap. When you that had to the three percent type two cap now you could have six percent of properties within a census track if i understand the proposed amendments. The other concern I have is changing to notify the neighborhood associations instead of the residents within 100 feet of an str. For example, zilker

neighborhood has a population of almost 6,000 residents, but only 1,016 on the listserv. So we would miss more than 80% of the residents if we leave it up to the neighborhood association listservs. That's a big concern. And I think what we should consider doing is eliminating the str permit fees for type one's. Help the homeowners out. Make it simpler. Don't burden them with the fees. Make the type two str's, if they pass, make them pay the full price of the permit and the process time and the notification time. I think that would be fair because those are full time commercial business operations. Don't burden the homeowner living in their home. And if you will, please verify the minimum parking requirement. I hope that someone here this afternoon will ask that question. Thank you.

[09:35:52]

>> Mayor Leffingwell: Thank you. J rasmussen.

>> Good afternoon. Thank you, mayor, mayor pro tem, and thank you city manager and thank you city staff. The austin rental alliance has been working to develop a successful program for people who may rent out their house for periods of less than 30 days. And we have to say this has been a success in our estimation. We've really enjoyed working with city staff. I have to commend the code compliance department. They've done a remarkable job of taking this mandate and creating a successful program in a very short period of time. And working with them has been really fantastic. We're committed to continuing to work with councilmember and staff to make this a successful program. We've voiced our concern over the online database and a map. Our concern is really that it may be used as a shopping list for criminals. But we understand that you've heard our concerns there. It is available in other forms. We'd like to see that the notification form continue as a written notice. But we feel this has been a successful program and we would like to continue to work to support it and we appreciate all of your help. Thank you.

>> Mayor Leffingwell: Thank you. Question for you.

>> Tovo: Did I understand you to say that you support the notification continuing to be a written notice?

>> We would prefer that to an online database. I understand the need for-- the desire to have an online database and really the concern that was voiced by a.P.D. Is just that when you have a database of properties that may be available and then can you tie that to a calendar, you're really giving somebody an opportunity to go in and, you know, wreak havoc or mischief.

>> Tovo: In your association's view, print notification to surrounding neighbors is not an onerous burden?

>> It is not.

>> Tovo: Thank you. I appreciate that.

>> Mayor Leffingwell: Ross smith?

[09:38:01]

>> Thank you, mayor and council. I signed up neutral on this because I don't think it fixes the problem. How many of you would shell out five hundred dollars, go through a health inspection and hang a big steal here sign on front of your house so you could clear a couple of dollars by renting it over a weekend. For most people who want to rent out their house that's what they

want to do. Most people don't want to do that and going under the radar. You are pushing an enormous economy under the radar. It's also having the effect since most people figure they're not nearly enough inspectors to catch everybody who is doing it over a weekend or south by week, it's creating this attitude of the law doesn't matter. I don't think that's a good precedent for y'all to set. So my suggestion is for people who just want to do it one weekend to give them a one time pass on enforcement. It's the simplest thing. If you want to be really generous, give them a two passes on enforcement. One for south by and one for a/c weekend or whatever, but if you're doing it more than two times, they're obviously doing it as a business. And they should be registered. And they should be fined. But to just do it for one weekend and have to go through all of that really is more than most people want to put up with. And so they are just not doing it at all. Thank you.

>> Mayor Leffingwell: Thank you, Ross. Good suggestion, I think. Peach Reynolds? Apparently not here. So that's all the speakers that I have signed up wanting to speak. Councilmember Morrison.

[09:40:03]

>> Morrison: Thank you, Mayor. I have a few questions. Do we have staff here? This will probably be a question for staff, the first one. One of the things this resolution does is -- first of all, it doesn't do anything but sets a path towards some changes to the code. One of the questions I have is it does talk about putting some regulation in place for multi-family and putting some caps in place. Mr. Rusthoven could you explain what the situation is right now with multi-family? Is it legal in multi-family even without any license right now or is it illegal?

>> I'm in discussions in the law department and it is a legal use under the ordinance within the multi-family residence zoning. However, right now there's not a licensing requirement such as there are for other types. And I've been informed by the law department that a perp in the multi-family would have to pursue a change in the certificate of occupancy, a change of use permit, have it changed from multi-family to short-term rental use.

>> Morrison: Okay. So right now it's legal, so what this does is it says if multi-family is going to be

-- regulate, that multi-family would be regulated, they would have to be licensed, and there would be some kind of cap. And your staff was suggesting and got carried over to the resolution a cap of like three percent per project or per apartment complex.

>> Correct. We believe they should be regulated like the other str's are.

>> And I'm glad to hear that. It's a good step in the right direction and I wanted to be clear because I heard some concerns from people thinking that right now is not legal in multi-family, but this is actually a step t.w.a. Towards regulation, not a way from the situation right now. So I agree that that's a good thing. In fact, I remember during the somewhat contentious hearing when we first put this in place that was one of the issues. So we were

-- those of us that weren't supporting it were urging, so I appreciate that consideration. I wonder if you could speak to the issue about phone numbers because I also heard that so there was a question about Amanda. I don't know if you heard Mr. King talk about inconsistent data and talking about information about folks on Amanda and second by I believe I got a notice -- a message from someone saying that they had gotten a notice that there was an str in their area, but no phone number was included. Could you talk about requirement for phone numbers and

where we could access them?

[09:42:53]

>> Yes. My understanding was in the... I would have to talk to code compliance a the ones that are taking that information. We mail out the notice, but they collect that information from applicant. I think that our intention was that it include a phone number as the most timely way to reach somebody. I can follow up with that for you. The intention was to include a telephone number.

>> Morrison: That was my understanding because it was going to be a contact in case there was trouble you needed to be able to contact them. And I think only an email address probably wouldn't be appropriate. Could you also take a look at access to to that information in amanda, make sure it's easily available.

>> Sure.

>> Morrison: There's another section of this resolution that says the city manager is further directed to develop online payment options and transition to an entirely online payment and registration process within six months. The city is in the process of putting online payments in infrastructure overall, and I bet you're not going to be able to answer this. The question is what's their timeline for that? Does it fit within six months? And the other concern I have is once we have the infrastructure in place I'm not sure that it's going to be instantaneously implemented in every year and there would have to be a prioritization list and i would hate to put this one at the top of the prioritization list without knowing what the list is. So I guess this is really something that I might ask my colleagues to except comment onif they have any thoughts on matter. I do have some commence, but I would love a colloquy.

[09:44:57]

>> Spelman: Is there somebody that could speak to the timeline?

>> I believe that's an issue for the ctm department and i don't see anybody here from that department. But willed have to work with them on implementing that section of the resolution.

>> Spelman: I think it should be high priority. My guess is that ctm would like to experiment with payments and various departments from various publics to see how well it works. This could be a high priority for pd and r. I would leave it for them to suggest what would be their highest.

>> Morrison: Great. So I would hope then that that language that's very explicit about what's happening in six months could be loosened up or given some direction.

>> Spelman: I was waiting for the other shoe to drop, councilmember morrison. Is there a friendly amendment you would like to suggest?

>> Morrison: Yes, there is a friendly amendment.

>> Mayor Leffingwell: Is there a motion?

>> Morrison: I do have some other questions.

>> Spelman: So we have something on the table for councilmember morrison to amend, I'll move approval of it in its current form.

>> Mayor Leffingwell: Councilmember spelman moves approval of resolution item 39. Is there

--

>> 40.

>> Mayor Leffingwell:40, excuse me. All right. Councilmember morrison.

>> Morrison: Thank you. If I could continue then. Then I guess I would like to make an amendment, a proposal for an amendment that item 2-b under the be it resolved that would loosen up the language about six months and say entirely online payment and registration process as soon as is reasonably feasible.

>> Spelman: If I say yes to this would you vote for the resolution?

>> Morrison: If you say yes to one more.

>> Mayor Leffingwell: Councilmember riley, are you saying yes also? All right. It's a non--- not very substantive, so I think it's summing to a friendly amendment. That's incorporated. Go ahead.

[09:47:03]

>> Morrison: Great. I would like to know the issue that mr. King brought up about are we checking for minimum parking requirements at all when somebody is applying for a license? Do you any information on that?

>> The presumption is

-- of course, these structures were built as in most cases single-family residential structures so when they received a building permit they were checked to make sure they complied with the parking requirement for a house, duplex, whatever the case may be. Part obtaining the license is you can file a co, we would presume that met the parking requirements at the time that you got your co. Or providing a safety inspection. The parking is not a part of the safety inspection. The presumption is if you have a house, you received a building permit at some point, there was a review and you would have been providing the minimum number of parking spaces.

>> Morrison: But there may be some older houses used that didn't go through that process.

>> Or some of the houses in austin predate a parking requirement for single-family residential.

>> Morrison: Right. So it sounds to me like if they provide a co it would have been checked for sure. If they just do a safety inspection it would be first missed. Is that correct?

>> Possibly. If they didn't receive a co in the past, which they probably did at one point. I guess hypothetically could be missed. It is two spaces per house so most houses provide that with a driveway or a garage.

>> Morrison: Right. So I think that takes

-- that could take some thinking about because there might be some problems arising from that. And then the next one

-- and this is where I'm going to be providing

-- sgesting a modification, and that is with regard to the suggestion in the resolution is that email notification to a neighborhood association contact replace the snail mail notification to the people within 100 feet. And I have a lot of comments about why that's not a good thing and I think that rather replacing the snail mail notification, it would be an improvement if we just changed it to be in addition that the neighborhood association contact, be notified by email in an addition. And if my colleague thinks that needs some discussion I'll be glad to

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[09:49:52]

>> Mayor Leffingwell: Councilmember, I think that is a fairly substantive amendment. I think that should be voted on independently if you want to propose it.

>> Morrison: I would propose that motion and I would like to discuss it. My amendment is the be it resolved number 1 e be modified to said a notification to neighborhood association contacts using electronic notification. So that is my motion that I would like to

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>> Mayor Leffingwell: Second by councilmember tovo.

>> Morrison: I do have information to pass out that might be interesting for folks because the concern is that's not going to hit that many people. That there are potentially some big holes in that. What we do have on the high dye as, I asked

-- on the dais, I asked our demographer to get information on certain neighborhoods. The reason I asked for those neighborhoods is because those are the neighborhoods within the last 12 hours I was able to get the number of people on their email list, on their yahoo email list. So if we could pass these down

-- and also if our av staff wouldn't mind, we could put this up so people could see it. There's a lot of caveats for these numbers, I wanted to say that right off. First of all, so what we have are

-- some of the numbers I really want to asterisk. Number one, barton hills. The number of households

-- these numbers for total population and number of households are from our

-- from mr. Robinson, our demographer. I also have started getting information from citizens about their neighborhoods. And some of the numbers are really different. So I question

-- like barton hills I had a very detailed listing of households in terms of how many were multi-family and how many were single-family that came up to 4800. So we may not want to look at that because that

-- that line because there's some question about that. Battle bend springs. I think that there's a difference in areas, but the neighbor hoa representative said that the number of households is really only 203. They're looking at something much different. Glen lake, I browned out

-- I'm asking to look at this one. Glen lake I think that that's probably not good data. North shoal creek, their estimate of the total population was 3,000, so that's pretty close to 3400. Southwood their estimate of the number of households was 2,000. Zilker their estimate of the population was 6,000. So those numbers really jibe. So what I'd really like to do is just highlight that some of these numbers don't make sense to look at, but others show you the range that we have in terms of coverage of neighborhood email lists. I think some will be as low as four or seven percent depending on whether you're looking at population or household. And maybe as high as 50% or upwards of that. But there are also several other caveats that go with these numbers. Number 1, some of these lists allow for non-residents to be on them. I can tell that you actually I am a member of seven of these lists. Because actually it's a nice

-- I know jerry's laughing at me.

[09:53:57]

[Laughter] it's a great way to see what's happening around the city and that people are talking about. So number one, some much of these people may be non-residents. Number two. Some of these lists are very exclusive and you absolutely have to live in the neighborhood and you're not allowed to be a business. So the neighborhood association contact would definitely in those cases

not include any businesses and cut them out. And thirdly, you can read these email lists as the emails as they come in on yahoo, or can you get a daily summary of all the emails. Or you can go to the web page whenever you have time and read them. That was one of the things that somebody from hyde park mentioned to me. And that was she doesn't get the mail sent to her. When she has time to she goes to look at it. All to say that I really don't think that this is a fair -- not a fair way to reliably notify adequately the people who need to know about the short-term rentals. That's why I think that it really makes sense to keep what we have here. 50 is not a lot of money for someone about to make a lot of money from their house and just adding it as an enhancement will help to raise the level of information as opposed to putting some neighborhoods really at a disadvantage. Spell tell the text of your

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>> Spelman: The text of your recommended amendment is what?

>> Morrison: I apologize for not having a copy. E would read, add notification to neighborhood association contacts using electronic notification.

[09:56:01]

>> Spelman: Mayor, you've ruled that that is not eligible for friendliness?

>> Mayor Leffingwell: Yes, sir.

>> Spelman: Okay. I will not accept then. I have a question for you. Does the 50-dollar notification fee pay for or more or less pay for the actual costs of notification for people within 100 feet?

>> We believe so, yes. We've represented that item to you before and we said that that would be about the cost of providing the current notice of 100 feet.

>> Spelman: That's a one time only fee. It's not a recurring fee on an annual basis, is that right?

>> As the code is written it would be on an annual basis. So that is something that we're going to be suggesting. At one point we're considering changing that to make it one time only upon the initial notification, but when the idea came of doing the database or the electronic in lieu of, we dropped that idea.

>> Spelman: Sure r \$50 every year forever seems overkill, particularly in f there is some database that people can refer to and particularly if the neighborhood association contacts have that information somewhere. Am I right in guessing that notification and neighborhood association contacts using the electronic means usually available is sufficiently trivial costs so we don't have to raise the fees to cover it?

>> Yes. That would be true.

>> Spelman: I have a question for councilmember morrison. From your point of view what I'm trying to do is get the most bang from the buck. Written notifications are expensive because we have to cut down the addresses and put them in the mail. On the other hand, you've made a really good case that we won't get to a lot of households any other way. Adding neighborhood association contacts strikes me as a really good idea and it seems like it will be a trivial cost and we should do that. Do you have any objection to having a 50-dollar fee one time only and the notification to people within 100 pete only the first time when it becomes becoming an str?

[09:58:19]

>> Morrison: I wonder if there might be something in between every year and once only because I think that in fact if there's notification and then things go smoothly, it would be fine am, but if things aren't going to go smoothly there is going to be some reaction from the nearby neighbors.

But at a certain point some of the nearby neighbors are going to move on and I would wonder if we might change it to something like every two years, every three years a notification has to happen.

>> Spelman: Sure. This may be something that legislating on the fly may not be a good idea.

>> Mayor Leffingwell: I agree too it not a good idea.

>> Spelman: It seems to me I shouldn't try to resolve this right now or maybe we as a group -- maybe in the next iteration of what appears to be a recurring ordinance and resolution, this ordinance is going to come back to us at some point. Part of this will come back to us in the form of an ordinance at sometime in the near future. And it might be a convenient time for us to figure out how to deal with that.

>> Morrison: That sounds like a good idea. For the record if this passes and stays the same beyond that, then I will be supporting this resolution.

>> Mayor Leffingwell: On the motion by councilmember morrison, the amendment, all in favor say aye? Opposed say no? It passes on a vote of seven to zero. So the revision to part 1, paragraph e. And will you furnish that language to the clerk? I have a question, jerry. This addresses the comment by mr. Smith a few moments ago about the type 1 str's. And you said something about a 400-dollar fee. And an option was part of the process.

>> Well, it would still have a 235-dollar annual fee, however, the 50-dollar notification fee might only be done the first year and not be an add on to the 235 every year thereafter or possibly only every second or third year, whatever y'all decide.

[10:00:39]

>> Mayor Leffingwell: In your opinion does the language in one paragraph a under resolve allow you to investigate other aspects of the charge for type one str's.

>> Of the fee?

>> Mayor Leffingwell: Can you address the comments by mr. Smith, in other words?

>> I believe what mr. Submitted was saying is that there should be

-- mr. Smith was saying is there should be an amnesty weekend or two per year where someone would not be required to comply with the code. For type one, yes. I don't believe that we have latitude in here to address that specific issue. What we're going to be looking at is a possibility for a type one rental where someone doesn't rent the entire property, they only rent a portion of the property is what we were

-- what was being addressed in 1-a, but we can certainly look

-- examine the issue if you would like of amnesty weekends.

>> Mayor Leffingwell: I think that's sufficient for me. I would like for you to look into it and get some information. As councilmember spelman pointed out, this is liable to be an evolving process. As we gain more information we can fine tune it. So check into that and maybe you'll have information when you come back or maybe after that. So if there's no further discussion -- common?

>> Spelman: One more thing. Jerry, we've had the conversation about the role of a database and i understand his comment about not wanting a database which is so readily available that it becomes a shopping list for burglars. I'm not sure at all how to deal with that, but if you could take it as direction from the council that you would continue to work with him and to find some way where we could make the information available to the public, but not so readily available that we can see a higher burglary rate among str's.

>> So I want to clarify. The staff's original idea would be that the database would essentially

replace the notice, but now it seems we're going to keep the notice, but we still have direction to work on the database and to address the security issues, is that correct?

[10:02:44]

>> Spelman: Yes. Thanks.

>> Mayor Leffingwell: So now the vote is on the main motion as amended. All in favor? Opposed say no? It passes on a vote of six to one with councilmember tovo voting no. So just a second. I'm having a bit of a computer problem here. If we can go now to item number 13, which I believe was pulled by councilmember morrison. Yes, it was. And we have a number of speakers also.

>> Morrison: I've been a relative visit councilmember today on the dais.

>> Mayor Leffingwell: Yes, you have.

>> Morrison: I'd be happy to hear from speakers first.

>> Mayor Leffingwell: Gus pena? Not here. John justice. John justice not here. Cindy colin. And donating time is susie harryman. Is susie here? Not here. You have three minute. S.

>> Good afternoon, mayor and council. I'm the president of the bouldin creek neighborhood association and I'm speaking about item 13 specifically, 2324 wilson street, which is inside of bouldin creek neighborhoods. Our neighborhood association has held a public process over the last several months in regard to the redevelopment of the affordable housing units here. Those meetings have had over 100 people attend, including oak creek village residents that live on the property and there is overwhelming support to retain the affordable housing project there. And especially the section 8 part of the affordable housing. However, the project encompasses more than just 170 units. It's currently zoned as mf 3 and the eureka holdings team is proposing to do a total of 581 units and needing an up zone to mf 6. We have been trying to negotiate with them to lower the density to a more compromised position and we are still hopeful that they will do that by today. We still have not heard. But what I just wanted to talk to council about that we are disappointed that the applicant has not started the zoning process earlier. There are lots of questions remaining about the density and its impact on traffic and pedestrian safety and the security of the residents. And these details would have naturally come out of the zoning process, the progression of that process. All I wanted to do was say great project. We're very happy. Happy to be engaged with the developer, but the zoning process should have been started earlier. It would have been better to have all those details fleshed out during the process because it would have better informed your opinion today in regards specifically to the two-million-dollar loan, would have better informed us to respond to the tdhca application in support of the project. But all in all we're happy that this project is moving forward.

[10:06:15]

>> Mayor Leffingwell: Thank you. Frances ferguson. Susana almanza? Ruby roya? Curt mitchell? You have thre minutes. Signed up against.

>> I'm sorry, if we wanted to distribute something should I take it

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>> Mayor Leffingwell: Pass to mayor pro tem cole and she will pass it down.

>> And just for the record in case it wasn't clear, we're signed up for this item. On so my name is curt mitchell. I'm a member of wildflower unitarian universe alist church in south austin and a leader with austin interfaith, a coalition of churches, schools and labor associations. And we urge and support and applaud council's conditional commitment to preserving 170 units of affordable

housing on wilson street. We support this project because the city, developers and civic institutions have a duty to preserve and expand our affordable housing stock. The oak creek apartments house many diverse families, young and elderly, small and large, who are members of our institutions, including st. I guess gnashes and san jose churches and 15% of the students of travis heights elementary school live in this complex. So we urge and support this conditional commitment. We understand that concerns and questions related to the proposed density of this project remain. There are many decisions yet to be made and we look forward to the public process that will take place and plan to be engaged in that process. Yet this deal presents a possible model of development which seems consistent with our imagine austin plan. And an opportunity to ensure that the families who live in this complex continue to have a home in the neighborhood of their choice. Austin interfaith's congregation, schools and labor associations are committed to work with the developer, residents and neighbors to ensure a good project with quality management and a reasonable amount of density that will ensure a high quality of life for residents and neighbors. Thank you.

[10:08:58]

>> Mayor Leffingwell: Thank you. Deana mason? Is she here? Renaldo rivera.

>> Hi, my name is ray rivera. I'm here to ask for your vote to keep our community together. I'm actually a resident at oak creek village for the past 13 years. I'm a single parent as well as other parents that have lived there. My mother also resides there. She's been there approximately 13 years. Basically I'm here to ask you to keep our community together. It would be a shame to see my mother at her age and condition to be moved out of there and not have a place to go. And as well as all the single families that are living there and senior citizens, I speak for them too. And like I said, I just want your approval to keep our community together. It would really be a good deed to all of us.

>> Mayor Leffingwell: So you are for approval of the resolution?

>> Yes, sir.

>> Mayor Leffingwell: Curt mitchell? You signed up both against it and for it, but you've already spoken once.

>> It must have been an error. Simply for.

>> Mayor Leffingwell: One speaker just signed up, clay dafoe. You have three minutes.

>> Good afternoon council, good to see all your smiling faces again. 13 is an item to approve a resolution for a conditional commitment of a loan. Resolution for a conditional commitment of a loan in an amount not to exceed two million dollars to 2011 travis heights lp, an affiliate of eureka holdings for demolition of the structures on 2324 wilson with funding being conditional upon the tax credits through the state of texas. Now, as you can tell from my previous addresses to you, I'm not a big fan of these government loans you guys give out, but I believe with all this talk in the newspapers and kind of what you guys have been preparing here through your resolutions shows you guys are committed to using poor people's tax money to spend on rich people building rich fancy housing complexes for poor folks. And you know, it sounds good. It's a good thing. It sounds like we're going to get these people in homes at affordable rates and that's a laudable goal and i really appreciate austin interfaith and most of the work they do is very positive. And I love talking with them. But this project here is just going to add more debts and more spending we can't afford. We better not do this because austin right now, some people say we have an overpopulation of vintage stores in austin. I honestly think we have an overpopulation of hi-rise condos. Let's use what we have. The american culture is one of the

most wasteful cultures in the history of man. We tear things down to build new things that are less efficient and less comfortable. And our standard and quality of life and living goes down. I'm afraid this is another program. And what brings people to austin and drives our economic development here is small business. It's the fact that we have cool cottages to live in, cool neighborhoods that haven't been destroyed by hi rises and apartment mplexes and multilevel corporate complexes which have taken over the city's of chicago and new york and los angeles as y'all know and these bigger cities. And austin has something special. I hope we can keep it, but I'm afraid this loan gives us the wrong direction even though is the end may seem good, whre the means? Thank you.

[10:13:20]

>> Mayor Leffingwell: That's all the speakers that we have. Councilmember morrison, did you want to comment on this item?

>> Morrison: I did. Thank you very much. First I want to thank the residents and the bouldin creek neighborhood association and austin interfaith and all the folks that really rolled up their sleeves and the applicant for working very hard and staff too because there's been a lot of lively conversation. I think it's not over yet. But what my sense is for me and I think generally across the community, it's really understood the importance of these 170 units that provide low income family, affordable family housing. The numbers for travis heights elementary are incredible. 15% of the kids there live in this apartment complex. And the idea of coming in that's been proposed, the idea of coming in and doing one for one replacement of affordable units that are in a high opportunity district, you know, and in an area of town that has a bigger and bigger challenge in terms of affordable housing. It's really a terrific opportunity that we have for the city. The discussion is about the fact that it will depend on some zoning and I really appreciate the applicant and the neighborhood association and residents working through those issues because until we can find that balance, affordable housing is an incredible priority for everyone and this council and most people in this community, and so is maintaining the quality of life and security of our neighborhoods. So being austin-bergstrom international to find that balance and balancing our priorities I believe that we can do that and I believe that the success of this town depends on being able to balance those priorities. Of course it made some folks nervous about the fact that this is only going to work if certain zoning happens. We're not sure exactly what that zoning has to be. So I want to thank staff for providing a revised resolution that gives a nod to fact that there is still some zoning down the line to come. And I just want to read it because I'm not sure if it got posted or not. But basically it's the same resolution saying the city manager is authorized to approve the conditional commitment of a loan, but there's another be it further resolved. It says this conditional commitment does not convey support or optician by implication or otherwise foisonning or any other -- for zoning or any other approvals that may or may not be needed for a project including or affiliated with the 170 affordable housing units. I think that makes everyone comfortable. We know there's more discussion to be had as ms. Colin mentioned, but it is going to be a real bright spot in our affordable housing inventory in this town if we can pull it together and make it happen. So I move approval, mayor.

[10:16:28]

>> Mayor Leffingwell: Councilmember morrison moves approval. Second by councilmember morrison. Any other comments? Councilmember spelman.

>> Spelman: Can for councilmember morrison or anyone else who can answer it, it's my understanding that the reason the second be it further resolved can be added is because no additional approvals or other adjustments to zoning are strictly speaking necessary for the developer to be able to put 170 units on the property. To put the units on the pro in the configuration they have in mind would require adjustments to the zoning, but they do not need any changes of zoning at all to fill their obligations to tdcha in order to get a tax credit. Is that accurate?

>> We need a staff person to answer that.

>> My name is sarah andre and I'm representing eureka holdings. I'm a consultant on this project. If I understood your question correctly, in order to fulfill our obligation to the tdcha we have to obtain zoning that will allow 173 units in the current

-- in the configuration we are currently proposing. Not what is sitting on the site today, but the plans, the site plan, the building plan, the unit plans that we are submitting to tdcha.

>> Soville to come back to us and seek a change in zoning if you will do what you're promising tdcha that you will do.

>> That is correct.

>> Spelman: If you were to put

-- if we were to deny you

-- this is a hypothetical. I'm asking a hypothetical not knowing what the answer is. If for some reason we were to deny you that change in zoning, what would you do then? Would you be able to build or something would you have to say no?

>> You would be able to build something. You could leave the units as they are. You could rebuild the number of units you have now. You could rebuild 123 units in a different configuration under mf 3. You could dispose yourself of the property and let someone else deal with it.

[10:18:50]

>> Spelman: It's not my property.

>> But you asked what you could do. Lots of things.

>> Spelman: Presumably one, perhaps, could go back to tdcha and seek an adjustment of the

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>> no. No. They do not give adjustments of that magnitude. You can seek an adjustment for something like we didn't put ceiling fans in every room. We built two units incorrectly. We put in a splash pad instead of a pool. Minor things that don't affect the quality, but to go back and reconfigure it would be a new application a year from now.

>> Spelman: I see. So the application would be lost in that case.

>> Correct.

>> Spelman: Okay. Thank you.

>> You're welcome.

>> Mayor Leffingwell: Councilmember tovo.

>> Tovo: I want to echo some of the comments that have been said before. I lived many years in bouldin creek and appreciate the need for reasonably priced housing in neighborhoods like bouldin creek because they are rapped piddly losing their reasonably priced housing and we can see the impact of that trend across the city as we see families with children increasingly moving further and further away from the central city. So I think this is a very

-- this is a great opportunity to preserve affordable housing very close to downtown in our central

city. And I just want to commend sip diu and the

-- cindy and the others. I had an opportunity to attend with others the session they had last weekend. And you know it's a complicated project and there were a lot of questions, and some challenging

-- some challenging and very different perspectives on it. I just thought it was a very, very productive discussion and it was really

-- I just really appreciate that so many people came together and were supportive of retaining the affordable housing there. It was great that we had residents come and speak to their experience and how important it was and their neighbors saying we agree. And we want to see

-- continue to be our neighbors. So thank you for that, all of that hard work. Mature mayor thank you. I used to live in the beuldin neighborhood too. Councilmember martinez.

[10:21:04]

>> Martinez: Obviously i will support the motion, but I did want to make a couple of comments as it relates to the issue that is facing all of us that we have been struggling with since the november bond election. That is what I see as a silver lining coming out of all of these different strategies as to how we preserve affordability, how we increase the number of units without having that bond package available to us. This is one option. You know, leveraging existing properties, maybe adding some additional entitlements so that market rates can help pay for the affordability. There are costs associated with that obviously and there are concerns in terms of traffic impact, growth, things of that nature. But again, I think it's one of those additional strategies that we're seeing in today's paper we saw the announcement of foundation communities with goodwill on south lamar. Again, goodwill or foundation communities partnered with goodwill and they have the property. Foundation communities has the resources to build the homes. These are the strategies that we're going to have to continue I think to bring forward if we're going to truly achieve the goals that we've laid out and at the same time preserve existing affordability on the ground as opposed to complete removal and scraping and trying to start over and add february% of the new units. 10% of the new units. I think it's a creative solution to a very difficult issue. I think obviously the neighbors in bouldin and the developers for coming together and putting together what I think is a good project.

>> Cole: Mayor, I'm glad that my staff got to attend the meetings and I am really proud of the neighborhood and our professional staff for working on this and making it clear that it is part of a bigger picture of preserving affordability throughout our city. But especially as has been commented, in our central city. More importantly, what we do as a council involves many things in terms of preserving that affordability. This is one of those things where we actually approve resolutions for conditional commitments for housing tax credits. But also it involves part of the zoning process in our other housing strategies. So I'm glad that we are acting uniformly as a council to support that. Thank you.

[10:23:28]

>> Mayor Leffingwell: All in favor? Opposed say no. It passes on a vote of seven to zero. A couple of housekeeping items. First a scheduled briefing today on a parking pilot program will be proposed until a later date. Item 46, the motion would be as follows with the item 46 being a non-condemnation item. Move that the city council of austin authorize the use of the power of eminent domain to acquire the property set forth and described in the agenda for the current meeting for the public cruise as described there in. I'll entertain a motion. Councilmember

martinez so moves. A second by councilmember morrison. All those in favor, signify by saying aye? Opposed say no? Passes on a vote of six to zero with councilmember tovo off the dais. Now we go to item 35. And we have a number of speakers sigbed up. We'll go to our speakers. First is clay dafoe. You have three minutes.

>> Resolution 35 reads, be it resolved that the city council supports lee leffingwell's membership in mayors against illegal guns, dot, dot, dot, and supports president obama's effort to develop a comprehensive approach to reducing gun crime. It goes on to say there by be it resolved that the city manager explore methods for collecting data about the sources of guns involved in austin crimes. I wish the feds would have done that with fast and furious. It's killing innocent people in mexico. You guys, your job is to protect the bill of rights. I don't see that happening here. In 1900 the marquis of salts bury said we musselled the day when there was a rifle in every cottage in england and we look at what happens when government has guns. Sandy hook, you think it's the deadliest school shooting in u.S. History as your resolution is harping to? I think not. In 1980 the u.S. Government shot and killed over 290

-- this is the u.S. Government doing this

-- unarmed indians at school, including over 200 women and children. How quickly we forget history. And they made them give up their guns. Just like a lot of totalitarian dictator ship regimes which include adolph hitler, stalin, king edward 7th of england. In 1937 the firearms act of england was passed which created a safe storage requirement to prevent guns from falling into the wrong hands. It looks like we're going down that path and I don't appreciate it. Let's look at the biggest gun massacres in u.S. History in recent times. One that comes to mind is when I was seven years old watching television. Waco, the branch davidian compound. In the next month and here in a couple of weeks we'll be approaching 20th year anniversary. Where women, men and children were shot dead and then their property was burned and people were burned alive. And that was the federal government. Thanks to people like bill clinton. I don't appreciate these government massacres like we saw at waco and ruby ridge and sand hill in 1863 in colorado. It's not fair to us the citizens to say the police can have guns and assault weapons and rifles and military style guns like the austin police department has and I can't even own a pea shooter. The first police officer was killed, shot by john booth, constable for  
[10:28:14]

(indiscernible). Thank you.

>> Mayor Leffingwell: Next speaker is laura presley. And donating time is bettie luker. Is bettie here? Bettie is not here. Okay. So you have three

-- six minutes.

>> James, are you signed up? Okay. So you have up to nine minutes.

>> I want to show a video

-- (indiscernible).

>> Mayor Leffingwell: You have nine minutes.

>> Thank you. Can you start the video?

>> I have a concealed carry permit and I am concealed carrying at this moment. I would hope that people felt comfortable with that due to fact that I am a trained professional with a weapon and I served my country for over five years in afghanistan, sustained wounds in protection of those rights and if there was an issue I would protect any person whether I knew them or not with my own life, so I hope you feel comfortable with that.

>> Thank you. [One moment, please, for change in captioners] I'd like to say something

-- a couple council members who tried to pass a motion in reference to firearms not being allowed in council chambers. Can you touch on the legality, if that were to have passed, what the legality of that would have been?

[10:31:11]

>> Because of the preemption in state law, as I think i may have alluded to earlier in the meeting tonight, such an action would likely be invalid and unenforceable one, and likely would not be a lawful directive in the event the police chief or others were asked to enforce such action, since such action was not taken, it essentially becomes moot.

>> And that's

-- that's exactly what seems to be the understanding, but the

-- i apologize to lucas shall

-- yonovin, I apologize, mr. Yonkovin, I apologize for the

-- you know, for the situation where in this case we have a coupe council members, and these were council members that also tried to dictate whether you were able to wear a hat in council chambers. Now we're trying to take your right to bear arms away. They're stating that, you know, whether it's their fear [inaudible] or un

-- fearful or uncomfortable before your attendance, i, on the other hand, feel safer that you are here. If we were to play out hypotheticals in reference to an elected official being concerned about somebody harming, it's not going to be coming from the likes of you, and so I appreciate your attendance this evening. I think it definitely opens the eyes of the public in reference to how some elected officials are choosing to go up and beyond the scope of their elected position to take away your rights. As a council member, we end up having to tape an oath. This was my oath when I was on the city council. We as council members have to solemnly swear or affirm that we would support the constitution of the united states, and the constitution and laws of the state of washington, that we would faithfully and impartially perform and discharge the duties of the office of council member for the city of oak harbor. And we have to swear to that. We take that oath. This evening we had a couple council members that were doing just the opposite, and so I apologize for that possible action. I'm glad we didn't get to that point, but once again, I apologize for you having to go through that. You took it in great stride. You didn't have to answer the questions but you still chose to do that.

[10:34:30]

>> Cole: Okay. Thank you for playing that. I really

-- hats off to that city council and mayor. There was an oath of office that each and every one of you on the dais took, to uphold the u.S. Constitution, that the rights of the people to keep and bear arms shall not be infringed. It's very simple. This resolution on decorate now calls for our legislature and congressional representatives to ban military-style guns. What in the world does that mean? That is incredibly ambiguous. Do you understand that the military standard handgun issue is a 9-millimeter semi-automatic? That's what I use for concealed carry and that's what the majority of the citizens of texas, of travis county, of austin use for concealed carry. This resolution calls for banning 9-millimeters. Does that make any

-- council member spelman, it does. The language is military-style. Military-style is also 9-millimeter. Until you change the language of this resolution you are calling for 9-millimeter ban. You need to understand what you are actually voting on. The right to protect ourselves is a divine right. Even mahatma gandhi strongly supported arming citizens, and you can't get any more liberal than gandhi. This resolution is not a liberal policy. It's an authoritarian act to disarm 9-millimeter handguns from peaceable citizens who have not committed any crimes and who did not commit the crimes at sandy hook. Keep your hands off our right to protect ourselves here in texas and honor your oath. Thank you. [Applause]  
[10:36:32]

>> mayor leffingwell: Next speaker is michael cargill. And michael, you have three minutes. I think I've seen you on tv recently holding forth on this subject.

>> I thank you. This is the first time I've been here. You guys look great up there. My name is michael cargill, I'm the owner of central texas gun works. We're a gun store, also a training facility. I teach the most courses

-- I teach more classes than any instructor in the state of texas, and we actually teach about three or four classes a week. And I have 60 people that attend my course here in austin every single day, and the reason I got into this business in the first place is because my grandmother at 70 years old decided that she was going to travel back to school to get her college degree. My grandmother only got a high school education and at 70 she wanted to be a nurse so she we want back to college. While my grandmother was sitting at a bus stop waiting for a bus to come, a guy came along, mugged her and raped her, and I decided at that point that I would make sure that every female in my family had the tools to protect themselves. We have an oath, we have a duty, to protect the women of our community, and if you do what you're attempting to do, you will target the lawful gun ownership in this country, and that is something we should not do. What do we say to the young lady, the senior citizen, who was attacked at McDONALD'S HERE IN AUSTIN And was beaten from a gentleman that wanted to take her purse and later died in the hospital? What do we say to her? What do we say to the 80-year-old woman who, in austin, was raped by a repeat sex offender? What do we say to her, who wanted to protect hers? These are some of the things that we're forgetting. You have a job to do. You have an oath. Remember that eth on. Remember that job

-- remember that oath. Remember that job. In the texas state capitol you can have a handgun -- you can take a handgun with the cho in the capital. You give them your license and they swipe it and you can go into the capitol with the handgun. You can testify before a texas state senate committee with a handgun on you. You can sit in the gallery and watch debates take place, you can sit there and watch with a going on you, and that's why I love texas. People will tell you -- safe place on the college campus. I say bollix. They argue about bills in the state capital until 1:00, 2:00 in the morning. They all have guns, they all hate each other and nothing bad has ever happened.

[10:39:28]

[Laughter] my name is michael cargill. Let's stop this direct attack of lawful gun ownership in this country. Have a great day.

>> Mayor leffingwell: Thank you, michael. [Cheers and applause] I want to say right now, any

oral demonstrations won't be tolerated. It's my responsibility to maintain decorum and if you can't be quiet you have to leave the chamber. That's fair warning. Michael, I'd say one quick then and then council member spelman may have a question for you. All those examples you cited, I'm not a sponsor of this resolution so I don't know what was in the intent of the people who are sponsoring it, but I have signed on with the mayors against illegal guns, and nothing in that would prohibit handguns, there's no

-- unless it's a high capacity clip that would be inserted in that handgun. So there's

-- there's no attempt to restrict gun use for recreation or for hunting or for personal protection. So I just wanted to make that clear.

>> Could I make one suggestion?

>> Go ahead.

>> If possible, could we

-- being a gun store owner, someone talks into my gun store to sell me a gun, there's no one that I can call to verify that gun has been stolen and used in a crime. If we set something up like that, then that's the focus of where we need to go.

>> Mayor leffingwell: Okay, I appreciate that suggestion. Council member spelman, did you

--

>> spelman: Well, the mayor has actually covered a lot of what it is I wanted to talk about. The focus of this resolution is on keeping guns out of the wrong hands, not affecting people who have a right to have guns in the first place, which involves all the people that you sell your guns to. You do background checks, as a gun dealer you do background checks of all people who buy guns from you, am I right?

>> Yes, sir.

>> Spelman: Do you believe that you or anyone else should be able to sell guns to anyone out on bail for violent crimes?

[10:41:33]

>> Of course not.

>> Spelman: Do you believe we should be selling guns to people on parole for violent crimes?

>> Of course not.

>> That's what we're talking about here, background checks for all gun sales and finding a way where this can be done without putting an undue burden on gun collectors. Providing prosecution straw purchasers, straw purchasers are simply buying guns on behalf of people who are not otherwise entitled to buy guns who couldn't survive the background checks. I think we need to focus on that and this does not say ban 9-millimeter semi-automatic weapons. This puts reasonable restrictions on public ownership of military-style guns. Had I been writing this myself I would have used assault weapons rather than military-style guns but i think that's the intent here is assault weapons. You don't sell assault weapons at your store, do.

>> Assault weapons, I don't know what that term is.

>> Semi-automatic, ak-47s.

>> Yes, we do.

>> Do you get many takers?

>> Actually, yes, we sell out out. There's a difference between the ak and the military. The military designation is m 16. The civilian version, which does not shoot automatic, it's semi-automatic, which is arma light. Now, if I can answer your question, I believe prostitution is illegal in this city but we know exactly where we can go get a prostitute. Also cocaine is illegal,

but we also know we can go get cocaine. If you ban any type of firearm you're going to generate the biggest underground system of purchasing firearms this city has ever seen and that's not something we need to do.

>> We can discuss assault weapons and we probably have disagreements. We may have more agreements than you imagine, but one of the architectures in favor of putting additional restrictions is it increases the price and every time you increase the price of something you make it a little less available and you reduce the number that are actually out on the street, which makes all of us, I think, a little bit safer. But we can

-- we can have that further discussion. I just wanted to point out that the primary focus of this -- primary focus of the organization that the mayor is a member of and the primary focus of police executive search forum and the annual association of chiefs of police both have resolutions roughly similar to this one, is keeping handguns and all guns out of the wrong hands, not banning guns in any way, shape or form.

[10:43:55]

>> Thank you, sir, just remember the eyes of Texas are watching.

>> We're watching too.

>> Cantero? Not here. [Applause] Francis Jenkin? Francis Shenkin has three minutes.

>> Thank you, mayor, thank you, council members. My last name is terribly misspelled there. I put it right on the computer. Good afternoon.

>> [Inaudible] fault.

>> It is, thank you. I've been an Austin resident for 45 years, and I am a board member of States United to Prevent Gun Violence, which is an association of 22 states that work in this area. I commend you for this resolution and for taking leadership. This is the capital. People look to Austin for leadership, and you are doing exactly what we expect of you as citizens of Austin and citizens of the great state of Texas. Austin is in a particular location and particularly well-suited to speak on this issue. We have a very youthful population, 40% of the population of Austin is under 24. We also are one of the top ten cities in the country in suicide rates. We are no. 10, but it's 8.4 suicides of our Austin residents per 100,000 population. Suicides are about 60% of the deaths by guns in this country. We need, as a city of young citizens, of University of Texas, to speak to this issue, and I think we're going in the right direction with this resolution. This resolution speaks to things that are happening nationally and things that are happening in the state legislature. It urges leaders of state and federal level to enact legislation that does specific things that you can

[10:46:25]

read: Background checks, prosecution of straw purchases, limits on the size of ammunition magazines, and it puts reasonable restrictions on public ownership of military-style guns. And it improves the accuracy and completeness of background check databases. It does not undercut the constitution. It does not ban 9-millimeter handguns. It does not restrict gun ownership in any way. It asks the city manager to collect data on guns that are used in crimes. Why would we not want to have data on crimes in Austin, Texas and guns that are used in crimes in Texas? I would urge you to add only one thing to your resolution, and that would be to direct the staff to make this part of your Texas legislative program formally so that you can speak to the legislature

--

>> we have that, but your time has expired.

>> Thank you. Thank you very much.

>> Mayor leffingwell: John woods. John woods. And you have three minutes.

>> Thank you, mr. Mayor, members of the city council, and thank you so much for discussing this important issue. It's

-- it's a discussion that's needed to happen for a long time and it's one that I'm glad is happening now. My name is john woods. I'm a graduate student at the university of texas. I moved down here to work on my ph.D. I'm a homeowner here in austin, happy to say. I was also a student at virginia tech when the shooting happened there, and that's why this is so important to me personally. I lost my girlfriend almost six years ago in that shooting, and I know that the things you put forward in this resolution are things that the virginia tech families and the survivors of virginia tech feel very, very strongly about and would agree with you on. You've -- if I could just put forward a couple things that I think that the city council could work on beyond what's mentioned in this resolution specifically, i think that we need to pursue creative solutions. As you've wisely noted, the legislature and even the federal government have taken over a lot of local control on this issue, so the city can't really do much, and still some cities have managed to find things that they can do. For example, mayor rahm emanuel in chicago wrote to several banks and asked them to cut off the line of credit for gun manufacturers that were supporting the nra, because the nra has indicated an unwillingness to allow background checks on all firearm sales. And other cities are divesting from gun manufacturers and that sort of thing, and these are sort of creative steps that can be taken, and perhaps also things that we haven't thought of yet. It's certainly going to require some thought and some attention. Again, I thank you for starting this conversation. The other big one, of course, that you mentioned is universal background checks. To anybody that I've spoken to has been affected by gun violence, this is the number one issue. We don't know how many

-- how many crime

-- or how many guns are being sold without background checks in this country, and that makes it really hard to address, but nevertheless, we can address it and we should address it, and I'm hopeful that something will be done at the federal level about that, but we're also introducing a bill here in the state legislature, and we would very much appreciate the city's support on that legislation. And then I would just say

-- and again, this is sort of with the creative solutions but I would hope we can examine what local control remains in the city's hands and see if we can come up with some solutions, perhaps assigning police to gun shows sort of just keeping an eye out and making sure that everything that's going on there is sort of happening over the radar, or in the radar, I guess is the correct metaphor there. But again, I just want to thank you, and I want to say most of these, are preventible, and i think

-- you know, I do this because nobody should have to go through what we went through at virginia tech and what they're going through in connecticut right now.

[10:51:01]

>> Mayor leffingwell: Thank you.

>> Thank you so much.

>> Mayor leffingwell: Ronnie reeferseed. Signed up for it too. Was that accurate?

>> Yes, sir.

>> Mayor leffingwell: You're in favor of this?

>> Oh, no, I'm

--

>> mayor leffingwell: I just wanted to make sure.

>> Thanks for asking. And mr. Spelman, when you increase the price, you expand the underground market. Think about our counterproductive war on pot smokers. Huh? Come on. Before we talk about destroying the second amendment of the precious u.S. Constitution you all swear to protect and defend from all enemies, foreign and/or domestic, let's first talk about fast and furious. That's eric holder, george bush's so-called president, so-called peace prize evil plan to kill latinos and simultaneously kill our second amendment. For your information, thousands of latinos have already been killed, with no end in sight with those very guns given to mexican crime drug gangs to mess up our precious u.S. Constitution. What could even be more obvious example of treason, impeach, convict or remove president, so-called peace prize before you totally stretch our constitution, thus doying our nation. So about this no.25, you all must reject out of handled any and all knee-jerk reaction hogwash shoved down our collective throats from our lame scheme media. To prevent this I suggest everyone start buying, by golly, read your history, where one can learn about false flags, i.E. Provocative spectacularly violent acts, like the sinking of the lusitania, like the gulf of tonkin, myth logical now fully documented as hogwash, 9/11, pearl harbor, look into these things. This is ever so handy recent series of horrific events is a diabolically spewed

-- has been in lockstep since by the lame scheme media prostitutes and I believe they're being too obvious, just too many aware citizens. I mean, you all swear to defend our precious u.S.

Constitution including the 2nd amendment. And about the idea of reduced gun crime, I'm be totally enthusiastic, excited by the idea, with the slightest research any learned citizen will understand, discover, more guns equals less crime. The facts prove that everywhere second amendment rights are denied citizens to defend themselves, crime goes through the roof. Not just here in the u.S. Examine the explosion of violent death crime enveloping england. The world [inaudible] our nation defeated long ago more than once already and as many times as it takes, I'll tell you. Talents are universal throughout time denying citizens access to weapons to fight back and that's the number one inalienable god given [inaudible] of our nation to not only stand up to homegrown tyrants but obviously our relatively

[10:54:22]

[inaudible] every day prevents world war 3 with anyone, no matter how many millions of soldiers they have.

>> Mayor leffingwell: You've used your entire three minutes. Thank you. [Applause] hillary witfield. Hillary witfield. Ed scruggs? And ed, you have three minutes.

>> Hello, good afternoon or good evening, as it may be. I do want to say hillary had to leave and I'm here to also speak on her behalf for the group you may know as 1 million moms for gun control now called moms demand action for gun sense, so I'm working with them and others in the community for a community-wide project to prevent gun violence. But I just want to say thank you so much for bringing this resolution to the floor here because the residents of austin, 99% of the residents of austin are so thankful that we have elected representatives willing to stand up and show leadership, because you are protecting freedom. You're protecting my freedom to assemble peacefully in a public square. You're protecting my freedom to go to a movie at a movie theater. You're protecting my freedom to drop my son off at school and not have to worry, hopefully, about gun violence. So I just want you to know that what you're doing

here should be applauded, and it's appreciated. I just

-- I want to say that what you're doing this resolution is a small step, but it is a step in the right direction to protect the rights of families and children. It sides with law enforcement and others who favor common sense constitutional steps to prevent gun violence. And hopefully this will pass today. Do believe there are some things we can do on a local level, and that would include encouraging gun buy-back programs. I love the idea of divesting our funds from gun manufacturers, and there are also some bills before the state legislature that i would encourage you to actively support. We need your help. Senator ellis's bill on background check will be introduced soon and again more than 90% of americans support the idea of universal background checks. This is the time when everyone needs to go on the record and say where you stand on this, because if you're in that other 10% you need to explain why, and it's time for the 90% to stand up. Also, there is a bill, lon burnham's bill before the house, would reestablish local control over some gun sale issues, including allowing cities to have more control over gun shows, and the ability to require background checks at these shows. So the issue will continue. The other side will be back every time and we will be back every time, and over time we're sure we will win the day, because common sense and safety, that's where the people in texas stand, and I'm confidence that you'll do the right thing by approving this resolution today. Thank you.

[10:57:40]

>> Mayor leffingwell: Thank you. Leanne collins? Leanne collins? She's here, huh? Okay. So just in case you want to get ready and you're out in resident atrium or something, caroline gorman will be the next speaker.

>> Hi, my name is leanne collins and I'm a gun owner and proud of it. I've owned several guns, and I am very offended that you all are trying to infringe on my second amendment right, and I think what you're proposing is very superficial and it's not really going to have any effect, like the men have said before, things will just go underground and keep continuing as they are. You'll still have gun crimes, and I think you need to explore other options aside from infringing on our rights. And that's pretty much all i have to say. Thank you. [Applause]

>> mayor leffingwell: Thank you, caroline. I would just say once more, I am a gun owner too, and i don't expect that status to change as a result of anything that's recommended that the federal government do in this resolution. That's okay, it wasn't a question.

>> I just feel like it's just the beginning of a slippery slope.

>> Slippery slope. Okay, yeah. Caroline gorman? And after caroline will be david septon.

>> David won't be able to make it. But I am here now. My name is caroline gorman. I spend a lot of time volunteering with a hunting organization. I'm also a libertarian here in travis. I am not for this measure for a very simple reason. I think it's a purely cosmetic fix to very real proble I think it does nothing to actually limit or decrease violence, and there are many studies out there to suggest it actually increases it. But in addition to failing to solve what are very real problems, I think it actually creates a whole new set of problems involving infringement of our rights, and gun ownership is a very fundamental right. I

-- you know, I don't think our government is going to turn on us any day now, but I don't know about the next generation or the one after that, and I don't want to set a precedent where it's okay for them to be taken away. I do believe it's a slippery slope. Part of the reason I think that is because most of these proposals would have done nothing to prevent the lone gunman type massacres that most of us have in mind when we talk about gun control. Most of those guns were obtained legally, not through gun shows. The shooter at sandy hook bought them from his

mother. I mean, these measures do not actually make us safer from gun crimes but they actually make us more vulnerable from certain intrusions by the federal government. Specifically, adding the magazine limits or the assault

-- so-called assault weapon bans, those are purely cosmetic. An assault weapon is not a category of weapon that actually exists. They are just rifles that are painted black and look scary and maybe have an extra handle or two. It's not this, you know, strange new category of gun that is just made for paranoid crazies to kill people. They're just guns. Regular guns that happen to look like something you would see in a movie. So like I said, I can't emphasize enough, this is purely cosmetic. It doesn't fix anything. In fact, I think it distracts from real issues like violence, mental health, abuse that causes those instabilities and that anger and that lashing out. Those are real issues that we need to address, but talking about the implement that is used or the tool that is used doesn't address the root problem. I have enormous sympathy for people who have lost loved ones to gun crime, and I am so sorry that that has ever happened, that anyone has ever had to suffer that, but I would like to actually fix that problem and not just address something that on the surface looks good. So for all of those reasons, I am very opposed to this resolution. I would appreciate you not passing it. Thank you.

[11:02:20]

[Applause]

>> mayor leffingwell: Thank you. Matthew wells? Matthew wells here? David king? You have three minutes.

>> Thank you. This brings back emotions, as you can tell, starting off emotional. When my dad was sick, he had a sawed off shotgun. I think he got it legally but he had a sawed-off shotgun, and as I think back to my childhood how many times I jumped in front of him as he aimed that gun at my mother. I'm still scared to death thinking about that. So I appreciate what you're doing to fight for medicaid funding, to fight for medical care for people who are sick. Thank you for making that a priority with the legislature of the state of texas, because that

-- I can see how that can help someone like my dad who didn't have the resources or that support. And even though I didn't get injured physically from that, I think it did still have a longlasting effect on me. And there are probably thousands, tens of thousands of children today who are going through that same kind of thing. So thank you for standing up and doing a good thing. I hope you succeed. I also thank you for trying to take action here to ban assault weapons and high capacity magazines, to try to stop gun shows at city properties. I know you were pushed back by the attorney general, and for, you know, now trying to collect data, which congress refuses to do. And one other suggestion i have is why don't you charge a thousand dollars city tax on each bullet that's sold. I'm serious, because if somebody has to pay a thousand dollars for the bullet, they're going to be very careful about how many times they use it. And secondly

-- and when i drive my automobile my rates are based on the injuries, the damage and the accidents cause

-- death caused from driving the automobile. The cost to own a gun should also be based on the damage and injury and harm that they cause to society. So I think we need to do things to help get the cost to own guns closer to the cost to society to have those guns. Thank you very much.

[11:05:14]

>> Mayor leffingwell: Thanks, david, and we're already charging the maximum allowable by state law. Our sales tax is 1 penny. So.... Nicole golden? Sean ireland?

>> My name is misspelled on there too. But okay. First of all, I don't find offense at this discussion. I'm glad to have this discussion as long as the city council does not act incorrectly on it. I don't have no problem with us talking about this. Council member spelman, you asked the question like how do we

-- the real question is how do you reduce gun violence? Well, you know, background checks is one thing but i want to remind you adam lanza killed those kids at sandy hook with stolen guns. At no time did he ever come into a process where he would need a background check. He stole weapons, and then went and shot kids with them. And I might like to clear up the abc news says no ar 15s were used. It was four handguns. Abc nicely news. And I'd little like to say, so we want to do the background checks, let's do them at gun shows. Now, there's this man who has been making the rounds at different democrat clubs trying to sell that snake oil, but I'd like to say that, you know, if you

-- he wants to make it where you can't go into a gun show without passing a background check, because what if you have a stolen gun to get cash for. But the point is if you need a background check to go into a gun show you'll just sell it in the parking lot. And if you can't sell it in the parking lot they'll sell it on the street. Criminals do not follow laws, and if you really want to have this conversation i would like each and every one of you to tell me exactly how criminals follow laws. Tell me more about that because I've never heard of it. And you want to know, who will enforce this? Who will do these background checks? The atf? The justice department? The people who gave mexican drug cartels machine guns? And now you're going to have us, you know, show piety to them so that we will be not victims of gun violence? They have no interest in that. Now, you want to say, all right, gun laws are needed. Well, you will never take illegal guns off the streets. It's almost impossible, because there will always be a market for illegal things. Now, we live in austin. Let's have the hard truth. You want to get marijuana off the street, make it illegal? How is that working here? It's not working at all. I can get you an ounce of weed in 30 minutes. But a gun I can't get. It took me an hour or so to do that, or even more. But I mean, the point is that I have a chl. I passed an f.B.I. Background check for it. I'm a responsible gun owner, and I think that it's the wrong message to say well, we need background checks when -- one of my problems with the whole thing is that you start off a thing with sandy hook, the children at sandy hook. Sandy hook children had nothing to do with background checks. It was a stolen gun. If they stole your car and hit someone with it, they're going to be like, well, did you have a driver's license? What does it matter? I'm a criminal. Insurance? So please let's have this conversation but do not act

--

[11:08:54]

>> mayor leffingwell: Your three minutes are up.

>> It's a very hot topic [inaudible] responsibility.

>> Mayor leffingwell: That's all the speakers we have signed up. [Applause] I will entertain a motion on item 35. Council member tovo.

>> Tovo: I'd like to move approval.

>> Council member tovo moves approval, second by council member morrison. Is there any

discussion? All in favor say aye.

>> Aye.

>> Mayor leffingwell: Aye. Opposed say no. Passes on a vote of 7-0. [Applause] okay. Mr. Guernsey, do we have a couple of quick 4:00 items that we could do I think there's an error on item 72. It doesn't say it but the public hearing has already been closed on item no.72.

>> Mayor, I can't speak to 72 but item 73 is one i could offer for a postponement. All the stakeholders, i understand, are in agreement to postponement of this item. 73, which is in regards to the university neighborhood overlay district relating to affordable housing regulations in the uno area. So we would offer postponement of that item to 4/25.

>> Which one is that?

>> Item no.73.

>> Mayor leffingwell: Right.

>> And I believe there are no speakers on item no.78, the last that I knew of.

>> Mayor leffingwell: R 72. No speakers on

-- or 72. No speakers on 72 or 78.

>> And then the remains items, I understand probably 74, 75, 76 and 77 are all discussions.

>> Mayor leffingwell: So the

-- do I hear a motion to postpone item 73 until april 25?

[11:10:58]

>> [Inaudible]

>> mayor leffingwell: Council member martinez so moves, council member spelman seconds. All in favor say aye.

>> Aye.

>> Mayor leffingwell: Aye. Opposed say no. Passes on a vote of 7-0. Let's go to item 72, public hearing has been closed, there are no speakers signed up anyway. This is for second reading, only second reading of the ordinance as described, a franchise agreement with american medical response. So I'll entertain a motion on that item. Council member spelman moves approval. Council member martinez seconds. Discussion? All in favor say aye.

>> Aye.

>> Mayor leffingwell: Aye. Opposed say no. That passes on a vote o 7-0. Without objection we'll take up item no.78. There are no speakers signed up. It is to consider an ordinance amending chapter 25 to the code to allow community events at zack scott.

>> [Inaudible]

>> mayor leffingwell: Council member martinez moves to close the public hearing and approve the ordinance on all three readings, secked by council member spelman. All in favor say aye.

>> Aye.

>> Mayor leffingwell: Aye. Opposed say no. That passes on a vote of 7-0.

>> Thank you, mayor.

>> Mayor leffingwell: And we still have a little time. Council member morrison has hinted to me that items 55 and 57 should be quick. So if we can take up item 55 now. The public hearing is closed, yes. So council member, you pulled this off the consent agenda.

>> Morrison: I did. And this is the little woodrow's zoning case. I suspect it's probably going to go through. You know, there were a lot of concerns raised by the neighborhoods, and there was

an agreement that was reached in terms of trying to allay some of those concerns, but I just wanted to pull this because, you know, we're still hearing from other neighbors, from people that live on clay street right behind that are very concerned about this, and frankly, my feeling, i can't -- I can't support this even with the agreement. My feeling is the neighbors were right, that we need to be really, really careful about where we put in bars, and I'm very concerned about the overall picture because, you know, I don't know of very many places in the city of austin where a few bars have located that haven't been blossomed into entertainment bar districts. And we need to make sure that doesn't happen up on burnet. If we want to be able to maintain the quality of that area for families

-- I know we're adding a lot of apartments and there are probably a lot of new people moving in, unfortunately, that aren't going to be families. But I'm just really concerned about what this will blossom into. I do believe the neighbors were right, and I appreciate people working hard to try to find an agreement, but i can't support this, and i won't make a motion to deny it because I think there's probably going to be more votes to support it.

[11:14:22]

>> Mayor leffingwell: So you're being practical now.

>> I'm being very practical but I just really had to say that I think we have to think very carefully about these cases.

>> Cole: Mayor?

>> Mayor leffingwell: Mayor pro tem.

>> Cole: I would

-- i definitely respect council member morrison's comments, but I want to point out that we postponed this item on third reading, and all the neighborhood groups were here last time when we postponed that item and represented, along with the applicant, and at that time I spent a considerable amount of time, along with my staff, and I want to congratulate them for spending that time to try to get us to a point that both sides could be happy. So I want to move to approve this with the following agreement between the neighborhood and the applicant. Number one, the area to be designated cs-1 has been reduced to 5,440 square feet, and the new metes and bounds description has been attached to the ordinance. The items to be addressed at the conditional use site plan phase by the planning commission include the total area that may be used by the applicant as a cocktail lounge must meet land development code parking requirements. The neighborhood has not agreed to waive parking ratio requirements but has agreed to support the variance to permit parking within 200 feet of a residence zoned sf-6 or more restrictive. There was also an agreement to make one-way only off clay from the drive side to the north side of the buildings, running east to clay and west to burnet. There was a designation request for employee parking only, to add signage and designate to the parking on the western boundary of the property, which is assessed from clay. Currently numbered spaces 45 through 52 as employee parking only. There was also an agreement to add green screens, build a green screen along the boundary of the property where residential screening is desirable, and to create some buffering of residences on clay and other near brentwood residences. And finally the hours of operation to reduce the closing hour of operation on sunday through wednesday to 12:00 a.M., On thursdays to 1:00 a.M. And fridays, saturdays and holidays closing hours would remain to 2:00 a.M. And

that is my motion.

[11:17:12]

>> Mayor leffingwell: Motion by the mayor pro tem to approve on third reading item no.55, second by council member spelman and that motion was with the additional conditions

-- is that a co or is that a restrictive covenant?

>> Cole: Well, we're going to follow the conditional use site plan at the planning commission to include.

>> Mayor leffingwell: You understand that? I'm sure you would understand it, mr. Guernsey.

>> Cole: Do we need more clarification?

>> Mayor leffingwell: No, not for me. Council member tovo?

>> Tovo: Mayor, I think those are good questions and those are

-- the questions that I've been asking and i know

-- I know you had a discussion about it at the work session on tuesday because I watched you all on tv. But, you know, I don't understand why some of these are not being

-- being handled in a conditional overlay or in a restrictive covenant, either public or private one.

I think that would have offered better protection for the neighbors. I'm glad it's read into the

record, but I guess I would suggest that the next staff are involved in that kind of negotiation,

they might explain to the neighbors the various options that might exist to codify those kinds of

agreements. But I do want to talk a little bit about the square footage. You know, we've gone

back and forth in our various discussions on this about the square footage that was going to be

used as a bar, and I thought it was closer to 2500 square feet, and so I guess I

-- and I think this may have come up on tuesday, and I missed the answer, but why is

-- why are 5,000 square feet being rezoned and not the 2500 square feet that are going to be used as a bar?

>> Greg guernsey, planning and development department. After you postponed the item at our last meeting we met in the atrium area, out in the city council chamber

-- or outside the city council chambers, and I think there was some discussion to include some space that address the bathrooms, make sure the bathroom area was included with the bar area,

perhaps a little bit of the storage area itself. It actually took in

-- i believe the area that's really not all of the building, but the area where I think everyone

understood was going to be used for the cocktail lounge. And so I think that's why

-- that's why brent brought it down. The original application was a larger area and it did shrink it

quite a bit. It was 2400 square feet. It did shrink to come down to the 5,440 square feet. And I

believe that's already part of the backup material. So it did shrink, did make it smaller but we

included areas that were probably integral to the use of a cocktail lounge.

[11:19:55]

>> Tovo: Thank you for that explanation. And, you know, I struggled a little bit with this in the last week or so because it is

-- you know, I appreciate that the neighbors agreed to some terms and that the potential owner agreed to some terms too, and that those were

-- you know, they were able to come to a place where they felt reasonably comfortable, but, you know, in the end for me this is not an appropriate land use for this site and I'm not going to support the rezoning for many of the reasons that my colleague mentioned and many of those that we've heard from neighbors in the area, and that is, you know, there are other sites that might have been appropriate for a bar. There are many uses that could be on this site. It is directly adjacent to neighbors and to single-family residences, and, you know, a bar that operates until 1:00 or 2:00 every night of the week is

-- will have a tremendous impact on those neighbors. Again, I don't think that's the kind of family-friendly corridor we're trying to create there.

>> Mayor leffingwell: Any other discussion? All in favor of the motion say aye.

>> Aye.

>> Mayor leffingwell: Aye. Aye. Opposed say no.

>> No.

>> Mayor leffingwell: Passes on a vote of 5-2 with council member tovo and morrison voting no. So I'm kind of a little bit reluctant to go with 57. We can try. See if we can do it in 8 minutes. This is for second and third readings, 4th and dpliewp.

>> That's correct, and council member morrison also

--

>> council member morrison. Obviously the public hearing is closed so

--

>> morrison: The public hearing is closed and when we had

-- I don't know if the applicant is here, but when we had last visited about this at the public hearing, I had specifically asked about what public benefits, what community benefits were going to be part of the application and the project, and I understand that's still being worked on. Is that correct?

[11:22:03]

>> Good evening, my name is amanda morrow and I'm here tonight on behalf of gables and hotel zaba. That is correct council member morrison. We're still compiling the list of community benefits and that's why we're asking for a second reading tonight.

>> Morrison: I appreciate that. And I am very interested in, you know, that additional information. I think it's important to keep in mind that at the hearing previously there was a description that our staff provided, mr. Robinson provided about if our modified cure was in place right now, what those

-- what those benefits would look like, and I do think it's important to keep in mind that the purpose of cure is very clearly laid out in our code, and I don't have it right in front of me, but there are a variety of different purposes, one of which is very important, and it's a topic to this council, and that is affordable housing. And I think that we've had some interesting conversations today, especially around the wilson street project about how important it is that especially because of the fact that we have

-- we're

--

>> mayor leffingwell: Council member, we're getting very close to the line here. We talked about community benefits and that's fine if they want to offer some community benefits.

Specifying them gets awfully close, I think, to the point of saying, if you do this, were -- we want you to do this as a condition of zoning. In my opinion that would be contract zoning and it is against the law. I mean, I don't want to be a part of any of that kind of discussion. If -- you don't want to indicate in any way that nonsupport of this measure would be conditioned on what community benefits they offer.

>> Morrison: Well, mayor

--

>> mayor leffingwell: I'd like for the attorney to weigh in on this too.

[11:24:05]

>> Morrison: I'd like the attorney to also because I've had an extensive discussion with our legal department and it's very important that we get this discussion really clear because it's my understanding that if we're talking about cure where there are specific

-- specific criteria in the proposed

-- in the purpose of cure in our code, it's completely within my legal rights, and I feel my responsibility, to be talking about how my discretionary authority in terms of using

-- of voting one way or another on a zoning case, may turn out. So I would love to hear from our legal department about this.

>> Thank you, mayor and council. With respect to the contract zoning, I would like to very briefly just describe what, in fact, zoning

-- I'll be very brief. From my research and reading on the topic, zoning is a legislative act where the council is passing regulations, laws for the benefit of the entire community. The court decisions state very clearly that what the council has an eye on is the general welfare, benefit of the overall community. Consistent with that, under the state zoning statute, the council is to hold public notices, hold public hearings and get community input, again, to best ascertain what is in the best interest of the community. Contract zoning in my opinion loses sight of that broader focus, that community-wide focus, and this is my term that I'm going to use, kind of takes a tunnel vision, if you would, and kind of zooms in, the process and focuses the city, rather than on the community, on to the applicant and what the applicant for the zoning change can do for the city. It really focus, if you would, on a quid pro quo type of contract transaction, and it

-- i think that its heart where the city binds itself or promises itself to give zoning

-- where it's hard, in return for a specific promise. That's the best I can do in general terms to describe what contract zoning is. Mayor, with respect to whether that

-- whether that applies in this case or not, I would feel more comfortable discussing that in executive session.

[11:26:55]

>> Spelman: Mayor?

>> Mayor leffingwell: Council member spelman.

>> Spelman: Allow me to reframe slightly what i think I heard you say. If we treat similarly placed applicants the same way, according to a clearly defined policy, then even if we are expecting something from them in exchange for something we're giving back, that's not contract

zoning because we're treating all similarly placed applicants in the same way. If we treat each -- each applicant even if similarly placed in a different way, we make a separate deal with each one of them, that's contract zoning. Is that what you were getting at?

>> Huh-uh.

>> The best I can say is that contract zoning [inaudible] away from taking into consideration the general [inaudible] wide health, welfare, safety, et cetera, and just turns the process into a -- a quid pro quo, if you would, where the city is promising the zoning specifically in return for specific benefits from the applicant. But

--

>> spelman: Our current zoning, however, is of that form in the sense that in exchange for community benefit

-- additional

-- additional increases in floor or changes in heights or whatever are only available if there is a community benefit. There is a quid pro quo implied in that, isn't there?

>> That's a good question, and I thought about that. I'm not about to say that that's

-- let's

-- let's

-- it's only proposed for second reading now, and I would much prefer it if we

-- before we come back for third reading that we post this for executive session, because I'm uncomfortable even with the discussion that's going on right now.

>> And would you like us to bring that back next week for third reading?

[11:29:00]

>> Mayor leffingwell: Well, the applicant just indicated they wanted second reading only.

>> Right. If you do pass this on second reading today, bring this item back for third reading next week?

>> Mayor leffingwell: Yes, with executive session.

>> With the executive session. Understood, yeah.

>> Mayor leffingwell: So council member martinez.

>> [Inaudible]

>> mayor leffingwell: No. Council member martinez moves to pass on second reading, second by mayor pro tem cole. Further discussion?

>> Spelman: Very, very briefly, mayor.

>> Mayor leffingwell: Council member spelman.

>> Spelman: If this is out of order please say so, but we have a clearly defined council policy on increases in entitlements in downtown area. It has not yet been codified, but it is a clearly stated policy, which I think is well-known to the applicant and also well-known to the staff who the applicant has been working with. And in anticipation that the applicant will find one of several ways of meeting that policy, I'll vote in favor of this on second reading.

>> Mayor leffingwell: I think it best to discuss it in executive session.

>> Cole: Mayor?

>> Mayor leffingwell: Yeah.

>> Tovo: Mayor, I had a comment?

>> Mayor leffingwell: Council member tovo.

>> Tovo: I happen to have the cure code here and I'm just going to cite from the section that council member morrison was talking about. This is the purpose of the central

-- of a

-- a cure combining district may be used in a variety of things and this is no.2. To accommodate high priority projects and enhanced ality of urban neighborhoods including the development of affordable housing and small businesses along principal transportation routes that serve a neighborhood. So it is clearly affordable

-- affordable housing is clearly called out, as has been said, as one of the

-- one of the ways in which a cure combining district can be used. And I also just want to mention that in addition to having the council adapt a downtown plan that talks about a modified cure and the kind of community benefits that would accrue, the developer also has an option of participating in our already codified

[11:31:07]

[inaudible] downtown density bonus program, and we should be aware that mr. Robertson provided the steps on what that would have netted had they sought that option, and that was available in our backup last time. I think it was \$708,000. So I really look forward to the continued discussion about what community benefits this project might use and how it might meet our current criteria for the combined

-- for the central urban redevelopment combining district purpose. So I'm not going to support it on this reading, but again, I look forward to that continued discussion and hearing more about how this will meet the purposes addressed in that zoning code.

>> Cole: Mayor, I have a quick question.

>> Mayor leffingwell: This motion is on second reading only and first only. When we come back next week I'd like to see a listing of cure zoning cases that have been passed recently, say in the last five years, that do not include a community benefit and those that do. Mayor pro tem.

>> Cole: I have a question for mr. Guernsey real quick. When are we going to see the codification of the do you

-- ofthe downtown plan?

>> I'm going to let jim robertson address that question.

>> Jim robertson, planning and development review, co-project manager for the downtown austin plan. There are

-- as y all well know, you adopted the downtown plan. There are literally hundreds of individual recommendations in the plan, many of which are not even recommendations in the form of that implementing them would involve code amendments. There are, however, a lot of the recommendations that do

-- would be implemented via code amendments. We're not taking all of them at once. We are

-- we are currently working very actively on the density bonus program code amendments, and the recommendations in the downtown plan regarding zoning in downtown, you know, cbd and dmu and so forth to expand the range of uses.

[11:33:21]

>> Mayor leffingwell: We're a little bit over time already

--

>> cole: You don't have a date but you understand we're struggling with the issue and we want to get it as soon as possible. That's the point I wanted to make. Thank you.

>> Yes, I'm well aware of that.  
>> Cole: Thank you.  
>> Mayor leffingwell: All in favor of the motion say aye.  
>> Aye.  
>> Mayor leffingwell: Aye. Opposed say no.  
>> No.  
>> Mayor leffingwell: Council member morrison, d you say no?  
>> So did i.  
>> Mayor leffingwell: All right. So that's 6-1 in favor with council member tovo voting no.  
We're in recess until approximately 7:00. Silverstein Leah Terri Underhill  
[11:39:33]

>> welcome to live music in austin, texas. It's that time again. And tonight we're honored to have the tribe with us led by ullrich ellison, born raised in austria. Ullrich is a guitarist who came to the united states on a fulbright jazz scholarship. If that doesn't sound impressive I don't know what does. Two years as a u.S. Student, he won three international downbeat awards after making an impression on the he can lek tick austin -- eclectic austin music scene he went with notable acts including nakia and abinimore. It features international cast of musicians, john nelson, witten reynolds, michelle alinoy and bean sell I son who happens to be related to ullrich as his wife. He won no.8 best new band and no.2 best instrumental band in the 2012 austin music awards. Last year's release of lose yourself was followed by a european tour, opening shows for english rockers, uriah heap and nazareth viking blues, ullrich and his band have played everywhere from blues festivals to neighborhood bars. Please welcome ullrich ellison and the neighborhood tribe. [Applause]  
[ 🎵 music playing 🎵 ]  
[11:45:44]

>> mayor leffingwell: A big hand. [Applause] thank you all. Thank you all thank you, ullrich and you now have a couple minutes to indulge in unabashed self-promotion. Tell us how folks can see you play, about your web site and where they can buy your music.  
>> Well, you know, the first thing I want to say is not so much pro moacial, but i ju -- promotional but I want to say for somebody who's not from texas, I feel really privileged to be part of a community that values music so much, like here in austin. Where really music is integrated in politics and daily life. You see it on tv and we played the morning show this morning, and it's just everywhere. And, you know, music matters here in texas, and I'm really fortunate, I feel very fortunate that I can contribute to this community and, you know, give it maybe a little bit of a viking or european twist. But yeah, definitely, it's a great place to live, and speaking of that, we'll go on a tour tomorrow. We'll be going through the midwest, kentucky, indiana and oklahoma, missouri, and then we'll play in sxsw, and if you want to find out more about our band just go to my webs, it's ullrich ellison.Com, and you can get all the info so I don't have to talk so much. And thanks so much for having us.  
>> That's great. [Applause]  
>> mayor leffingwell: So now we have the proclamation, which I'll read. It says be it known that whereas the city of austin is blessed with many creative musicians, whose talent extends to virtually every music genre, and whereas our music scene thrives because austin audiences support good music produced by legends, local favorites newcomers alike, and whereas we're

pleased to showcase and support our local artists. Now, therefore, I lee , mayor of the live music capital of the world, do hereby proclaim february 28, 2013 as ullrich ellison and tribe day in austin, texas. Congratulations.

[11:48:15]

[Applause] do you all want to be in a picture?

>> Sure, yeah. [Applause]

>> mayor leffingwell: So it's my privilege today to issue a proclamation in honor of a texas institution, texas monthly magazine. I think virtually everyone in this room is a fan of texas monthly. Their coverage of topical events and texas-wide events and a little bit of irreverence occasionally have amused and entertained so many of us, including myself. And we have here today jake silverstein. He's the editor

--

>> yes.

>> Editor. He looks young to be an editor, doesn't he? Texas monthly magazine. He's going to tell us a little bit about it but first I'll read this proclamation. Be it known that whereas texas monthly was conceived four decades ago, grounded in long study about texas, what it once was, what it is and what it might become and whereas texans have turned to texas monthly for its nationally renowned award-winning expertise for four decades. One out of eight texas adults reads the magazine monthly, numbering more than two and a half million readers, and whereas texas monthly is a first-class magazine which appeals directly to the sophisticated, cosmopolitan folks that texans have become, both in hard copy and through its on-line presence. And whereas we're pleased to recognize texas monthly on its 40th anniversary and to join in celebrating 480 issues of a magazine that truly reflects our great state. Now, therefore, I lee leffingwell, mayor of the city of austin tech, do hereby proclaim february 2013 as texas monthly month in austin, texas. Congratulations to you, jake. And come up and say a few words.

[11:51:19]

[Applause]

>> thank you, thank you very much. Mayor leffingwell. It's an honor for us to get this proclamation. We are

-- we are honored by it. And we

-- mayor I noted that this is on the occasion of our 40th anniversary. All 40 years of our existence has taken place right here in austin, texas. The first issue of the magazine was published in february 1973 from right here in austin. We've moved around downtown four or five times but we've always been right down here and we've sort of grown up, I guess, with the city, 1973 to 2013, austin, texas has undergone many, many changes and so has texas monthly. We've evolved in a lot of ways and we're very proud to call austin home. It's been a good home for us, for the last 40 years. They have been a great 40 years. Mayor leffingwell pointed out we have 2.5 million magazine, one in eight texans read the magazine. The number grow as we expand in platforms, not just print, web sites, tablets and mobile phones and other forms in which we reach our readers and we expect that to continue to grow and we expect to go right here in austin for another 40 years. So thank you very much for this day, mayor, and thanks to all of you.

[Applause]

>> let's get a picture.

[11:53:37]

>>> You know, so many folks here in austin depend on our great and vast network of nonprofit social service agencies that serve people across our city in various kinds of needs. The city, of course, places a high value on these organizations, and we try our best to support them, both with good words and verbal support and cheering and all that, but also occasionally with money. We do provide contract funding to support and to provide seed money for the organizations that we consider worthy and meritorious to continue their great work. And without what they do, we would be ill served in this community because there are so many needs that, of course, the city can't do all that. Even if we had the money we couldn't do it as well as you do so I want to thank you very much for what you do. I'm going to read a proclamation in honor. I believe this is in honor of your 25th birthday. It reads, be it known that whereas the wright house wellness center was founded in 1988 by persons living with aids in several complementary holistic -- and several complementary holistic health therapy practitioners who believed their therapies could effectively treat the symptoms of chronic illness, and whereas initially focused on the needs of gay white men infected with hiv/aids, the center has adjusted its programs through the years to serve those populations at greatest risk of contracting sexually transmitted diseases, and those who do not seek timely medical care, and whereas, the center's philosophy is to help people living with or at risk for chronic diseases to make healthier lifestyle choices, to employ therapies to delay illness and to contribute back to the community. And whereas we are pleased to congratulate the wright house wellness center and its many accomplishments over the past quarter century. Now, therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim the entire year 2013 as the wright house wellness center's 25th anniversary in austin. Congratulations to all of you. Brad. Where are you?

[11:56:19]

>> You know, 25 years ago this week the wright house wellness center was born as a great roots effort to bring hope and compassion to those who are suffering from hiv/aids, and at that time you all know that there wasn't that much else to be offered to those folks since medicine hadn't gotten close to catching up to making the disease a manageable one. You know, today our mission has evolved from almost end-of-life care to disease management, and then actual wellness. So our clients are taken from, you know, getting them stabilized, getting them medication, getting them housing, to turning that focus to wellness and eventually self-sufficiency. So we couldn't be more grateful and honored by the city, by mayor leffingwell, for, you know, this recognition, and we definitely appreciate your support, and we invite you to find out more about how you can help at [www.TheWrightHouse.Org](http://www.TheWrightHouse.Org). Thank you so much. [Applause]

>> morrison: Good evening, I'm council member laura morrison and I'm here with folks from women and construction, the austin chapter, who are celebrating the national women in construction week this week, and so there's lots of activities we're going to hear about, and I so appreciate the work that they do. If you look straight across the lake you can see the fannie davis gazebo, which is a beautiful, beautiful architectural gem on the lake and it's a wonderful, graceful peaceful place to be able to enjoy a little piece of austin and it was a gift of the women in construction from way back. So I'm pleased to be here with terri underhill and -- who is the president of the austin chapter, and cora brown, the chair of women in construction week. And so we have a proclamation to recognize this great event. It says, be it known that whereas the national association of women in construction, otherwise known as nawic, has distinguished itself as the voice of women in construction for 58 years and its austin affiliate has promoted the employment and advancement of women in the local construction industry, and

whereas the construction community represents

-- represented by austin nawic region 7, chapter 7, has been a driving force in fostering community development through renovation and beautification projects, promotion of skilled trades careers and its positive vision for the future. And whereas this week's events will include both community outreach and mentorship guidance for students considering construction as a career, and whereas we are pleased to recognize austin nawic and its many dedicated volunteers for their steadfast work in support of women and construction. Now, therefore, I lee leffingwell, mayor of the city of austin, texas, do hereby proclaim march 3 through 2013 as women in construction week in austin, texas. Thank you for your work and congratulations.  
[12:00:01]

[Applause] [one moment, please, for change in captioners.] [one moment,ase, for change in captioners.] (cofa9-27-12.Ecl) we have teamed up with american construction and the crockett high school construction technology program to take their students, about 40 students, on a all-day tour of the circuit of the americas. We will also be doing our third annual take a student to workday next wednesday with crockett, and several people throughout the construction industry and austin will be taking a student to work with them to give them a full day experience of what it's like on the job. We've also just forged a partnership with texas state university with their construction program to provide mentoring services and career guidance. As lara mentioned, we did build the gazebo at lady bird lake and we also renovated it, and stint parks department just -- the city of austin parks department just recently completed another renovation. We also helped build the buford tower which is right over there. Our website is austinawic.Org. We met the first thursday of every month. If you're interested in membership, please check out our website.  
[12:02:33]

[Applause]

>> Cole: President obama and former secretary of state clinton have said that an aids-free generation is possible in our lifetime. In fact, the obama administration is already working towards an aids-free generation. Secretary clinton said an aids-free generation is not just a rallying cry, it is a goal that is within our reach. As recently as 2008 there were 4,359 cases of individuals in travis county living with hiv/aids. This week of prayer reflects the efforts and coalition of gove churches and aids service organizations to make this vision a reality. The austin city council and the austin travis county health and human servicesdepartment wishes to express thanks to those who will offer prayer and support for the elimination of this illness. So be it known that whereas in travis county young people ages 13 to 24 represent 20.6% of all new hiv diagnosis, but the end of the aids epidemic is in sight. With prayer, education, testing and treatment. And whereas through the national week of prayer for the healing of aids, planning collaborative group, partners have been working with churches to inform, educate and empower the community with respect to hiv, aids health. And whereas thanks to the involvement of local churches, awareness and education through presentation, workshops and prevention, hiv testing and referrals will be made available to citizens to help solve this major health challenge. Now therefore i, lee leffingwell, mayor of the city of austin, do here by proclaim march 3rd through 9th, 2013 as the national week of prayer for the healing of aids.  
[12:05:23]

[Applause]

>> thank you so much, mayor pro tem cole. My name is paul scott, I'm executive director of aids services of austin. I'm so privileged to be able to accept this proclamation on behalf of so many people that are a part of the national week of prayer for the healing of aids. This is an observance that is done nationally and now austin's observance is one of the largest in the entire country, and it's because of the great leadership of the group the black faith-based health initiative that has been doing this work for many years and has expanded this outreach across 24 churches this year reaching over 15,000 people in the church community over the next two Sundays. And this is an incredible opportunity to raise awareness and bring attention to an issue that disproportionately affects communities of color in the austin and central texas area. And this Sunday we started national week of prayer for the healing of aids in the churches and with hiv testing across our community in the church settings in order to raise awareness to destigmatize hiv testing so that people know if you become

-- if you get your test, know your status, that's critically important to stopping the spread of hiv and aids. I want to especially recognize the founder of the black faith-based health initiative, sam price over here. Sam, you've just done an in-- you've just done an incredible job for this initiative. And we're very fortunate to be partnering with many organizations within the faith community, but also those organizations that provide hiv services across the community, including the white house wellness center that was recognized earlier, the care program, aids services of austin, the care communities, as well as other hiv resources and services across the community. And we're very fortunate to be able to partner with so many churches that have been opening their doors to this issue and to people affected by hiv and aids. Just to let you know that there will be an official observance and program on Thursday, March the seventh at Freedom Home Baptist Church, and that will start I believe at 7:00 p.M., correct? 7:00 p.M. At Freedom Home Baptist Church. And Barry, I'm pleased to have pastor Oscar Howard who will be our guest pastor for that day and Tanya Runnels will be our guest speaker. If you would like more information about the program you can call Aids Services of Austin at 458-2347 and again we're very privileged to work with such an incredible group of organizations and very proud to accept this proclamation. Thank you.

[12:08:15]

[Applause]

>> Cole: Come on up, come on up. Mr. Hamilton was a freed slave and he purchased the first house in austin by a freed slave. That has now been named the Hamilton Dietrich House and will be where the African-American Cultural Heritage Facility resides. He bought that house in 1879 just a few years after being free in 1865. Now we'll read the proclamation. Be it known that whereas we are pleased to celebrate the opening of the new African-American Cultural and Heritage Facility, a multipurpose complex that will serve as a gathering place, an information center and office space for the Capitol City African-American Chamber of Commerce and whereas included in the complex is the restored Dietrich Hamilton House built in 1880 for one of the first freed slaves in Travis County. And whereas a mosaic mural in the courtyard pays tribute to the African-American community in austin and serves as a fitting jumping off point for the exploring of the African-American Cultural District, one of the first official cultural districts designated by the state of Texas. Now therefore I, Lee Leffingwell, Mayor of the City of Austin, Texas, do hereby proclaim March 1st, 2013 AS THE GRAND Opening of the African-American Cultural and Heritage Facility. And I hope y'all will join us on Friday at 2:00 at the facility. 1:00? We keep changing

because of the special called meeting. 1:30 we're going to say.  
[12:11:04]

[Laughter] on friday at 1:30 we will have the grand opening. And now I'll let nelson say a few words.

>> Thank you, mayor pro tem. We are very honored to be here on behalf of the commission as well. On my left is dr. Jean. We've been on this journey for a long time, 2006. But on behalf of my community at large this is a very important moment in the city's his true. I can tell you it's been almost eight years, so to see this building up now and to see the disparity in economics, health care, police and safety, arts and cultural entertainment and education, it is critical for this city. I'm very proud, very honored that the city has done this, but also let me say that this is a great event for our city, but a building is a building. It's up to us as individuals to make sure that we breathe life into this building in terms of addressing these issues and make sure that on a continuous basis these very same disparities are being addressed with the same kind of commitment. Eight years is a long time. Many folks have died, these issues still remain. It's going take an even greater commitment for the next five, eight years and make sure these things are addressed. In 2013 any kind of disparities in health care or police or education, economics, is unacceptable. I hope people are totally committed because this is a great occasion, it's been a great journey, but so much work remains. Thank you very much. [Applause] delta sigma theta. We're going to charge y'all for looking so good. Delta sigma theta. Delta sigma theta incorporated was founded on january the 13th, 1913 by 22 collegiate women at howard university in washington, d.C. These women wanted to use their collective time and talents to promote academic excellence, to provide scholarships, to provide support for the under served. To educate and stimulate participation in the establishment of positive public policy and to highlight issues and provide solutions for problems and communities. Delta sigma theta was the first black greek letter organization with a graduate chapter in austin. And now I'll read the proclamation. Are you having fun back there? Just checking. Be it known that whereas austin is pleased to recognize delta sigma theta sorority, founded on the campus of howard university in 1913, on the occasion of the organization's 100th anniversary, and whereas delta sigma theta has more than 250,000 members in more than 900 chapters worldwide. The sorority uses its five-point programmatic thrust of economic development, educational development, international awareness and involvement, physical and mental health and political awareness and involvement to create its national programs. And whereas the local alumni chapter was established in 1930 and was the first black greek letter organization in austin with a graduate chapter. They have been involved in administering programs related to the five-point program, trust. Now therefore i, lee leffingwell, mayor of the city of austin, do here by proclaim february 2013 as delta sigma theta sorority's 100th anniversary.

[12:15:43]

[Applause] congratulations. Who will talk?

>> Thank you, mayor pro tem. It is indeed an honor to stand here today and accept this on behalf of the members of delta sigma theta sorority, the austin alumni chapter. I can promise you this, that we intend to be here in austin and to continue the work. We plan to continue to offer scholarships to high school students, provide financial literacy to community members. That we will partner with organizations like financial fitness austin. That we will provide programming for the youth of this city through our delta gyms, our delta academy, our embody programs. That

we will continue to form partnerships with organizations like the march of dimes with the sister's network, with the sickle cell anemia association. That we will work with the african-american health alliance to bring education and information to the community. That we will educate and continue to register voters so that we can strengthen our relationships not only here, but throughout the state of texas to try to improve the lives of those that we are here to serve. And in celebration of our 100 years of service, we will actually host a centenni celebration here in austin. That we will be at the hilton and it is really with the purpose of recognizing five organizations in this city who also are working to transform lives and impact this community through issues of educational development, economic development, international awareness and involvement, political awareness and involvement, and certainly through physical and mental health. Mayor pro tem, we thank you on behalf of the members and we hopefully will have all of austin join us on april 13th at the hilton as we not only celebrate the work of delta sigma theta sorority, but also the work being done in this community. Thank you.

[12:17:55]

[Applause]

[13:03:25]

>> testing 1, 2, 3, 4. Austin city council will return after recess. District.

[13:05:59]

>> We are out of recess and we will begin with item number 74, I believe is the next item on our agenda. We did have several speakers.

>> Good evening. I am jerry west overfor if planning and review develop. This is relating to amphitheaters. The city council passed a resolution earlier this year asking us to amend chapter 25 of the code to make amphitheater structures a conditional use in all zoning districts. Upon further consideration, the staff believed that the conditional use would not be the correct way to handle it. There are multiple uses that can occur within an amphitheater and, therefore, our idea would be

-- the amphitheater would need to go to receive planning commission approval like conditional use but it wouldn't be conditional use. It would be a structure that requires planning commission approval. We have made some changes as we were here last time as we were directed to by the council. We have made it so it applies only to civic and residential uses as we were directed to do in the resolution. We inserted a portion that would address the amphitheaters were built before the ordinance came into effect and how much they can expand without having to go to the planning commission approval again and we made other minor changes and the planning commission did vote for this item on a vote of

-- let's see, a vote of 5-3, and I am available if you have any questions.

>> Mayor leffingwell: Any questions for staff?

>> Cole: Mayor, I have a couple of questions.

>> Mayor leffingwell: Mayor pro tem.

>> Cole: I know we had some discussion about having a number attached to this resolution.

Jerry, you talked about the fact that we don't have any type of cap on the number of people that need to be gathered before you can come

-- you speak that?

>> Sure, the code does not currently define amphitheaters and the resolution directed us to look at outdoor amphitheaters and we came up with a definition of to to define an outdoor amphitheater but we are concerned because the definition is somewhat broad, we decided that the best thing to do would be to recommend that we have a certain number of people, a capacity for a certain number of people before it triggered requirements of this ordinance, planning commission approval and to be clear, a smaller area that was maybe a gazebo or prairie garden or something like that, that did not get confused with the amphitheater and to clarify, we had initial suggestion that an amphitheater of over 100 people would trigger the ordinance. At planning commission, the idea of 25 people was brought to a vote. It failed by a single vote. Staff would support

-- it is still part of our recommendation that we have a minimum number of people to trigger the ordinance but that would be just to clarify that certain small things may meet the definition of an outdoor gathering place but probably an amphitheater as we would use commonsense to apply.

[13:09:04]

>> Cole: And the code would apply to the other smaller things? They just wouldn't be labeled an amphitheater.

>> It would not trigger to go to a planning review commission.

>> Cole: It would trigger the process. Mayor, I will move approval.

>> Mayor leffingwell: We have several

--

>> Cole: We have a speaker.

>> Mayor leffingwell: We have several other questions. I think council member tovo wanted to ask something. Council member morrison, did you want to add anything?

>> Morrison: Jerry, thanks to your work on this. The last conversations we were having with some people, with some of the amphitheater developers and representatives were concerned about whether or not this was going to kick in existing amphitheater or an existing permanent amphitheater into noncompliance, if anything here would do that. So I wondered if you could just acknowledge, one way or another, whether an amphitheater that is loftily constructed without a cup, because it was permitted before the date of this ordinance, will not be considered noncomplying or a nonconforming structure as a result of this ordinance?

>> That is correct. Already permanent amphitheater built or not would not be subject to this ordinance.

>> Morrison: Thank you.

>> Mayor leffingwell: Okay. We will go to our speakers. David king.

>> Thank you. I only

-- my only comment is if we could consider adding the neighborhoods to part 2b regarding the statement on the impact, and that

-- okay. It's not on my handout here but there is 2b. It talks about impact on surrounding areas of the amphitheater and I would just wonder if we could add residential to the list of

-- in section 2b. Thank you.

[13:11:14]

>> Mayor leffingwell: Council member morrison.

>> Morrison: I just wanted to comment that I am going to be offering an amendment in a little bit that actually identifies the evaluation criteria as the evaluation criteria specifically already in the code for cup, so I think that's going to tie it all together.

>> Mayor leffingwell: Amanda lavon.

>> Good evening. I name is amanda lavon and a resident of the covered bridge subdivision and also a member of the covered subdivisions board

-- on the board for the homeowners association. We are here in support of the ordinance and we are also here to say thank you very much for taking our concerns into consideration. That is very much appreciated. We had a lot of discussion in the last couple of months about how the language was worded. We were concerned whether it did protect the neighborhoods or not, and so, therefore, we are very satisfied with how it is written. Any amendments to to improve the protection of neighborhoods is definitely appreciated. Thank you all very much. I especially want to say thank you very much to council woman morrison and council woman tovo. You guys put a lot of extra hours into this and we all have, and we appreciate it. Thank you.

>> Mayor leffingwell: Frank goodlow.

>> Good evening, council, my name is frank goodlow and i am on the board, also and i will echo what amanda said. You know our checkered difficult past that brings this ordinance up. We would not think we would need to have something like this so specific but events proved that to not be the case. So I echo what she said. Thank you for listening to us over these past few years on these issues, particular council member morrison and tovo. We appreciate it. Thank you.

[13:13:31]

>> Mayor leffingwell: Galvin butler.

>> Thank you, mayor. My name

-- actually I go by my middle name which is kim, but that's okay. I am kim butler and the secretary for the texas state homeowners association. Our homeowners association would like to express our deep thanks to council woman morrison and also council woman tovo for hearing us out and all of the members who agree to meet with us regarding our issues that we brought to the council the past few months. We also want to express our wholehearted support of this ordinance. The reason is really quite simple: In 2008 austin's land development director, greg guernsey made a land use decision via private email. The decision was not logged. No interested parties were notified. There wasn't even a site plan in play. That action, we have been told, is not unique. What was unique was what he approved. The facility whose uses director, guernsey, unseen. Today a building permit for 2500 person capacity outdoor amplified sound entertainment venue characterized as an amphitheater is being considered by the city. The entertainment venue would be built on a lot zoned rural residential and would sit snack dab in the middle of three established rural residential zoned neighborhoods. In the beginning of this process, our homeowners association had been told by other members of the land development department

that such a land use decision would never be made by any individual, that it wouldn't be made without the involvement of the planning commission and a public discussion. But director greg guernsey, in a private email did just that. Further, director guernsey then denied our homeowners association our right to appeal his decision, based solely on the fact we didn't file our appeal within 20 days of his secret, unlogged, unannounced land use decision. Refusing to pass it on to the board of adjustment. Now, while our homeowners association has not yet achieved the relief we seek in our case, we are hopeful that this ordinance change will prevent other affected parties from being denied their right to a public voice in regard to unique developments and certainly not denied their right to appeal irresponsible decisions made and kept in secret. Thank you very much for your time and, again, we do wholeheartedly thank you and appreciate your support for this ordinance change.

[13:16:42]

[Buzzer alarming]

>> mayor leffingwell: Thank you. Those are all of the speakers that we have signed up.

>> Mayor, if I may, I was asked to make two statements on the record regarding these items. I will do that quickly. One is the clarification under the ordinances that proposed by the staff, a person could, if there was existing amphitheater that was already built could expand the amphitheater up to 10%, similar to the nonconforming portion of the code, without triggering the requirement to go to the planning commission for approval. So there is a provision in there that does allow for a slight modification to an existing amphitheater before these provisions are acquired and second there is a portion of the resolution that dealt with the music office and specifically specific we feel it is a process issue and would not work its way into the ordinance but if we receive a site plan application with an amphitheater as part of it, before bringing to planning commission, we would bring to the music office and seek their knowledge with regard to sound issues so they can maybe provide advice that would involve possible problems in the future. It to state that on the record.

>> Mayor leffingwell: Council member tovo.

>> Tovo: I just have a very quick question that someone forwarded to me. Can you describe to me, the appeal process, when it gets to the planning commission, can an aggrieved person appeal that just like the conditional use process in front of the council.

>> Yes, we usually do that but we don't call it use because it is a structure not a use but we put that provision in there.

>> Tovo: Okay. Great. Thank you.

>> Mayor leffingwell: Any other questions? And council, this is -- since this ordinance is already before us, submitted by the staff, I would like to ask that after we follow the procedure we did earlier today, any substantial amendments that are made after the main motion is on the table, let's just go ahead and offer them as -- as an amendment to be voted upon.

[13:18:51]

>> Spelman: Mayor, I have a question.

>> Mayor leffingwell: Council member spelman.

>> Spelman: Jerry, you've recommended that the amphitheater provisionally whole amphitheater is designed to hold 25 or more persons. Why did you pick 25 and not some other number? Is there a natural breaking point there some place.

>> To be frank, most of the definitions we were looking up, the cities, a lot defined as a place that held 1,000 or more. We knew that wouldn't go over very well here.

>> Spelman: No.

>> So we cut it down to 100 and that did not get received very well when we were at the planning commission. One planning commissioner suggested 25. We would agree to that number as well. We were, again, looking for a minimum size so there wasn't any confusion that a couple of park benches constitutes an amphitheater, to give an extreme example.

>> Spelman: Twenty-five is a number you can work with and you can distinguish between something smaller and something larger relatively easily?

>> Yes.

>> Spelman: Okay.

>> Mayor leffingwell: Council member morrison.

>> Morrison: So I would like to

-- I am going to go ahead and put a bane motion on the table we approve on all three readings what staff has proposed.

>> Mayor leffingwell: Motion by council member morrison. Is there a second for that? Is there a motion for us to close the public hearing and to approve all three readings? Second by council member spelman. Council member morrison.

>> Morrison: I would like to make a motion that i referred to before, and basically as mr. Rustoven said we can't just say it is a conditional use permit because it is a structure not a use so we are mimicking the structural use permit and I want to get some more specificity in there to make sure that the criteria that are used in conditional use permits are explicitly called out as the criteria for this, also, and that the notification process is exactly the same and so the amendments would be

-- I am going to pass this out

-- would, in fact, specifically site 25-5-147, 25-5-145. That's the evaluation criteria, and 25-5-144, public hearing and notice. Just for a good comfort level, for conditional use permits, 25-5-145 evaluation of a conditional use plan

-- site plan, for instance, it says a conditional use site plan must have building height book scales set back, open space, landscaping, drainage, blah-blah-blah, that's compatible with the use of an abudding site so that would be my motion that we would get those specifics in there.

[13:22:00]

>> Mayor leffingwell:

-- specificities in there.

>> Mayor leffingwell: Motion by council member morrison. A second to that. Council member spelman. Any discussion? Council member spelman.

>> Spelman: Jerry, my reading of this amendment. It doesn't change anything but it does make clear on what probably needs to be clarified?

>> It does. I totally understand the concept. One thing that we tried our own abbreviated version of that, which is already in here so I suggest we strike that out. That would be under section b of 25-2-517, we leave on the first sentence discussing appeal to council but perhaps take out the second sentence that says land use commissioner evaluation should approve the project impact on adjacent uses such as noise, traffic and circulation, and I think that's more on what council morrison read into the record. Her version is more comprehensive than that.

>> Morrison: You are saying this is okay?

>> Yes, more comprehensive than what we had.  
>> Spelman: But in addition to this, we should strike the second sentence in, 25, 2, 5, 17 subsection b which is global language. This is much more specific?  
>> Exactly.  
>> Morrison: So that would be striking  
-- the sentence, the land use commissioner should consider  
--  
>> yes, as part of this criteria  
--  
>> Morrison: To be clear we are using fir sentence of b, which is appeal to council?  
>> Yes.  
>> Okay.  
>> Morrison: All right. I will add that to my motion.  
>> Mayor leffingwell: All right. Council member spelman.  
>> Spelman: I second it.  
>> Mayor leffingwell: Any further  
-- council member riley?  
>> Riley: Just to make sure we are clear on the language, that the text we just added reads the paragraph a, construction of an place of employment. Is that  
-- I  
-- construction of an amphitheater  
-- i think there was a missing word. Construction of an amphitheater?  
>> Morrison: Yes.  
>> Mayor leffingwell: Correcting the type po. All in favor of the amendment, aye. All no?  
[13:24:06]

>> Aye.  
>> Passes on vote of 7-0. Any other amendments.  
>> Cole: Mayor.  
>> Mayor leffingwell: Mayor pro tem.  
>> Cole: We heard the discussion of having a limit on the number of people that would constitute an amphitheater and I would like to offer an amendment that would apply to part one, section four to add entertainment and performances of 100 or more people and this was staff's original recommendation.  
>> Mayor leffingwell: All right. As opposed to 25?  
>> Cole: There is no limit in there now.  
>> Mayor leffingwell: There was discussion of that. That's right.  
>> Cole: Or we can discuss the 25 versus 100. I am going with 100 jerry. Would you like to comment on 25 versus 100?  
>> We started initially with 100 and then we tried 25 because that's the planning commission made recommendation for. We would be fine with either one.  
>> Cole: Which one would work best? What would be the best interest of the city, from your perspective?  
>> I believe 100, because i think that you could have a situation, there is some small ones I know that have been done as a part of a library for an outdoor reading area or something that, you know, were probably more than

-- were more than 25 and less than 100, I don't know if that really rises to the level of meeting approval of the planning commission, so, again, we are either/or but our initial recommendation was 100.

>> Cole: Mayor, I am going to make that amendment for 100 people or more.

>> Mayor leffingwell: Okay. Amendment proposed by mayor pro tem. Is there a second to that? Council member spelman.

>> Spelman: I second but i do have a technical suggestion.

>> Mayor leffingwell: Okay.

>> Spelman: The technical suggestion ist we actually put the 100 people in after the word "assembly" so the subsection 4 would ed read amphitheater means open outdoor area structure or manmade area specifically designed for the use of 100 or more persons and capable of an area capable of performance areas.

[13:26:13]

>> Cole: That's fine mayor.

>> Mayor leffingwell: I think that is a clarification.

>> Spelman: It is clearer of what is going on, I think.

>> Mayor leffingwell: That's fine. So the amendment is for 100 with the edit supplied by council member spelman. Council member tovo.

>> Tovo: I want to suggest that you reconsider that number. You know, this

-- this came forward because we had a situation where there was a really incompatible use with residential areas and, you know, 50 is still a lot in an amphitheater. I think we would be better off looking at the 25 number that the planning commission considered rather than 100. One hundred is a pretty big venue.

>> Mayor leffingwell: I think what we could do is vote on this and if it doesn't pass, you can offer your amendment.

>> Tovo: That's fine. I was just offering an opportunity for reflection. Mayor.

>> Mayor leffingwell: Council member morrison.

>> Morrison: I also would like to suggest a moment of reflection, because I think that as

-- you know, I think this has been a big issue what the number

-- if there would be a number and as i understand it, the planning commission really didn't like the 100 but almost passed the 25. They lost by one and I

-- when I think about the examples that are used for where it's really not going to be reasonable that we need to do this, I have heard gazebos. I have heard prayer gardens and I heard a couple of park benches and 25 would handle all of those. The minute you go to 100, you may well be putting into place some structures that can basically have a pretty big gathering. One hundred people is a lot of people, and so I just

-- I just think that we are going to really solve the problem if we have 25, and we are not going to solve the problem

-- we are still going to run into problems if there is 100.

[13:28:17]

>> Cole: Go ahead. Mayor.

>> Mayor leffingwell: Mayor pro tem.

>> Cole: I am just concerned about people that do have gazebos and have 25 kids over and as y'all know, i have had some pretty big parties at my house, and

--

>> mayor leffingwell: Loud, too. [Laughter]

>> Cole: Woke all of my neighbors up. [Laughter]

>> Cole: I want to get to a good medium point. Let's just take a vote on this. It's not a break or die thing. I just think that it's just a judgment call about that number.

>> Morrison: I think that the bottom line is we may well have situations

-- you are not going to have to go to the planning commission to have to have another party next year. And yours is already in place, but with 100, we are

-- we are definitely going to

-- I am afraid we are definitely going to run into situations where there really are some incompatible issues that could have been dealt with if they had gone through and some of you building the

-- somebody building gazebo in their backyard, that's not going to be 25 people, so I am just

-- I am just really concerned. We've got

-- this has been a very complicated process, very contentious process, and to come all this way and then end up with something where there is really going to still be some problems, I just don't think 25 is going too much of an onus who are brinking forward.

>> Mayor leffingwell: Let's count. Mayor pro tem wants to withdraw her motion and offer a new amendment. We need to vote on this motion.

>> Morrison: Mayor, I understand that she can withdraw it but we can have discussion.

>> Mayor leffingwell: That's what you are having the discussion.

>> Morrison: We are. But we don't have to vote right this

-- I want to make sure we have the discussion we need to have.

>> Cole: Mayor, I would like to withdraw the motion and make a new motion and have the number be 50.

[13:30:21]

>> Mayor leffingwell: Mayor pro tem withdraws her motion and council member spelman is okay with the

-- you second it?

>> Spelman: I will apply second a 50 but I do have a question.

>> Mayor leffingwell: New proposed amendment is the same except 50 instead of 100 would be the trigger, second by council member spelman and go ahead.

>> Spelman: I am actually considerably happier with 50 but I wonder if there is a natural breaking point here that we might be able to rely on. Jerry, is there a limit to the number of people I can have in my backyard for a party? It is 50, isn't it?

>> It's 50 people. What we are talking about here is a structure. How many people in an amphitheater structure would hold. Not how many people can be at a gathering, but, yes, in a single family zoning, 50 is the limit.

>> Spelman: That's good because my backyard can hold considerably more than 50 but I really like for any future gazebo my wife might dream up to be. [Laughter] fifty seems to be a natural number to me and I think it would avoid the justish ability of this. Like I can put 50 around it, I can put 75 people around it. Fifty seems like a natural breaking point to me.

>> Mayor leffingwell: Council member tovo.

>> Tovo: I am trying hard to envision a structure in somebody's residential backyard that would have

-- that would need to be bigger than 25 people. I mean, really, if you are building with probably just a couple of exceptions, if you are building a structure designed to accommodate more than 25 people, you are probably talking about having concerts and other kinds of things that are the whole reason that we contemplate

-- that we embarked on this past. Do you get requests very often from people who want to build gazebos that would want to accommodate 50 people?

[13:32:24]

>> There is one example i can think of in east austin where an individual was building a place that arguably could be considered an outdoor performance space for  
-- as a part of his house. I guess our attempt on establishing a permit was to avoid having to go to the board of add justment for use determination because a neighbor was unhappy about a neighbor's structure, so by having some sort of capacity, some sort of minimum size, I think we can preclude that from happening.

>> Tovo: Would you say it was in the 50 category or the 25?

>> Mayor leffingwell: Again, I started at 100. I am fine with 50.

>> Tovo: I am talking about the example you are talking about.

>> Oh, that example that, place is rather large. He had multiple level decks. What he was building.

>> Tovo: You described it as outdoor performance base and that is exactly the kind of thing that would go through a conditional use process so we would have an opportunity

-- so people have an opportunity

-- i think that is the kind of example where, if your neighbor is going to have an outdoor performance base with multiple decks to accommodate more than 50 people, there ought to be a public process where you have an opportunity to go down and say, look, this is a neighborhood and this isn't an appropriate use.

>> For the record, we didn't approve that for that exact reason. Outdoor entertainment but i am saying I would like to avoid the argument about whether something is an amphitheater or not. I think by having a minimum size we can get there.

>> Tovo: Yes.

>> Mayor leffingwell: Again, I suggest it is 25. That seems to be a reasonable residential level accommodation. If you are

-- have ordinary residents that want the opportunity to build an gazebo, 25 is in the ballpark.

Fifty is an outdoor performance base in my book. I appreciate you coming down. We are getting closer. We aren't quite there yet.

>> Cole: I thought 50 was your number?

[13:34:26]

>> Tovo: Twenty-five was my number. I thought the planning commission who gave us great thought as council member morrison said, came close to approving that. I think if we have a number in there, I think 25 eliminates the gazebos so we aren't getting involved with people's, you know, monitoring their outdoor structures that are clearly a residential use but not allowing for outdoor performance bases.

>> Mayor leffingwell: So theote is on the amendment with 50 people with the other language previously discussed. All those in favor, say "aye." Aye. Opposed say no.

>> No.

>> Mayor leffingwell: Martinez votes no? Aye? So that passes on a vote of 5-2. Council member morrison you voted no.

>> Morrison: Correct.

>> Mayor leffingwell: With council member morrison and tovo voting no. So that amendment is part of the motion. Anything else? So the vote is on the main motion. All those in favor, say "aye." Aye. Opposed say no. Passes on a vote of 7-0. Public hearing is closed. Passes on all three readings.

>> Thank you, mayor. Our next item is item number 75, which is conduct a public hearing and consider an ordinance amending city code chapter 25-2 to address electronic prototype assembly and testing and whether it should be permitted or conditioned use in the dmu base zoning district. We had zoning for a lodge based on west avenue and west sixth street. At the time, siris logic applied for the dmu, which we supported. However they wanted to do chip testing inside the building and we found out that chip testing is not allowed in the dmu category and they asked for cs which is actually aower zoning category of the neighborhood and as well as the applicant strongly preferred dmu. However, the applicant changed her request to cs with a promise to the neighborhood that if the code were amended to allow chip testing in dmu, they would come back in the future and rezone the property dmu. So this is the first step of that and this would be to allow a prototype assembly and electronic testing in the dmu district. The staff recommendation as well as the council resolution directly to do this is to make it a permitted use in the dmu zoning district. When we went to the planning commission, their recommendation was to make it a conditional use and the staff stands by our recommendation, that it be a permitted use and I am available for any questions. Mayor leffingwell: Questions for staff. Council member spelman. [13:37:11]

>> Spelman: Why did the planning commission want it conditional and not permitted?

>> I was hoping you wouldn't ask me that. I had trouble understanding that myself. I was at the meeting where they did it. There were a couple of people who spoke, a couple of people we see a lot in city hall. The response was just in case. Just in case, it might not hurt to have the planning commission take a second look at it. Staff's opinion is this is something that incurs inside the office building, the testing of chips. It doesn't involve explosives or anything like that, so we think it should be permitted.

>> Spelman: In your estimation is electronic prototype assembly and electronic testing as you understand it going to trigger the sorts of things which cause conditional use permits to be turned down?

>> No, generally speaking, i think the factors that affect neighbors -- and i don't really see this affecting neighbors. I don't think you will be able to tell a difference if you go over there today that they were doing chip testing inside that building. You would think it is an office building. So we don't see a need. There are, of course, if they do use chemicals, there are fire department rules on storage of the chemicals and how much they can have on site and et cetera but to us, it is permitted in cs and not permitted in dmu. And we think it is very similar to office use, the outside public wouldn't notice it.

>> Spelman: Noise, parking and traffic circulation was the three part addendum to the first version of the amphitheater and it doesn't seem to be noise, parking and traffic circulation going to be involved in here?

>> Martinez: Mayor.

>> Mayor leffingwell: Council member martinez.

>> Martinez: Thanks, mayor. Jerry, I want to ask you on the last point you were making about hazardous material storage. Is there a threshold that one would reach under the permitted use that would trigger another, either permit request or another process that they would have to go to if they were to get to this very hazardous category?

[13:39:16]

>> This would be additional structural requirements, i believe, that they would have to consider. I am not very familiar with the rules but I k I

-- with the fire department, they talk about the different ratings and different amounts of chemicals and certain amount of chemicals to be held and there is a limit for certain types of buildings and structures of how many chemicals to store before you have to construct a building in a different way. In this type of use, I don't think would involve using those chemicals to a volume that would necessarily trigger that requirement.

>> Cole: Mayor, I have a question.

>> Mayor leffingwell: Mayor pro tem.

>> Cole: Jerry, sirus is a high-tech company engaged in this opportunity and you told council member spelman that you didn't follow the logic of the planning commission in not making it a permitted use. Are there any other high-tech companies within dmU that this would impact? Do you know?

>> None that I am aware of that do this type of work in a dmU building. This specific use was created, actually, I think for silicon labs. It was downtown right acr the street but that's -- because at the time after the site at southwest parkway, they wanted to chip testing so we created this discrete separate use to distinguish it from chip manufacturing which is a whole different ball of wax which does involve chemicals and stuff like that, but testing of the finished product, we allowed special use to allow them to do that on southwest parkway. The you check thing here ises thing the done downtown in a typical office building.

>> Cole: It sounds like you are comfortable with what sirus needs for making this a permitted use and not a conditional use. Mayor, I will make a motion to postpone item number 75 and direct the staff to repost the item for a public hearing, making electronic prototype assembly and making electronic testing a permitted use in the dmU based zoning district.

>> Mayor leffingwell: Sorry, I didn't catch the first part, was the motion to approve?

[13:41:20]

>> Cole: I don't think I can approve because I don't think we are posted sufficiently. Is that right, debra? Do you want to comment on that?

>> Council member, that is correct.

>> Mayor leffingwell: So restate your motion for me. Yes, we do have speakers. Let's hear from the speakers first. David king.

>> Thank you. My first comment is that this item did not come before the downtown commission before it went to the planning commission, uo my first point is to ask the council to -- if you have purview of that, to change that process to that the downtown commission can have a chance to review it before it goes to the planning commission, and that came up during the planning commission. The planning commission members questioned why it hadn't gone to the downtown commission first. I think the downtown commission should have an opportunity to have input on matters that are in downtown like this. So that's my first suggestion. My second point is that we are talking about something that's kind of new for a new kind of use in

-- in the downtown area here, and so what I would suggest is that we consider starting out as a conditional use, kick the tires a little bit on it, make sure it is what we expect it to be, and then change it to a permitted use, once we have kind of checked it out. That would be my suggestion. Thank you.

>> Mayor leffingwell: Amanda morrow.

>> Good evening, mayor, council members. I am amanda murrow and I am here on behalf of sirus logic and say we support staff's recommendation make this a permitted use. If you have any questions, i will be happy to answer those.

>> Mayor leffingwell: Questions? Okay. That's all the speakers that we have. I will just say that, you know, sorry this was posted the way it was, that we otherwise could have acted on it tonight but I would entertain a motion again now from mayor pro tem cole.

[13:43:35]

>> Cole: Okay. I would like move to post pone item number 75 and direct the staff to repost the item for a public hearing, making electronic prototype assembly and electronic testing be a permitted use in dmu based zoning district.

>> Mayor leffingwell: And that would be to march 7th?

>> Cole: Yes.

>> Mayor leffingwell: March 7th.

>> Council, if we are required to do that, i believe we would have to post it for march 28. If we had to

--

>> mayor leffingwell: The 21st wouldn't work?

>> No, I believe the 28th. I looked into it earlier today. If we are being required to renotify it today, 28th would be the soonest.

>> Mayor leffingwell: For notification. Okay. So the motion is to postpone until march 28th and when it's reposted, to change the posting language to make electronic prototype assembly and electronic testing a permitted use.

>> Excuse me. And that's a perfectly fine pesting, but that

-- perhaps it is just sort of a moment where we can look and see if council and the public are very used to seeing postings that are very specific, but perhaps if we started posting such as starting to change the use category to those two uses, if we did that, we wouldn't be in this predicament and then next week if we are looking at permit and somebody wants to go back to conditional, then we can go back to conditional. So if you would let us post that in the broadest way possible, so that we don't actually

--

>> mayor leffingwell: Would it be more correct to say withdraw this and direct staff to make another posting for march 28th with the option for conditional use or permitted use?

>> Cole: So moved.

>> Mayor leffingwell: So moved by mayor pro tem. I will second. Any further discussion? All those in favor, say "aye." Aye. Opposed say no. Passes on a vote of 7-0.

[13:45:44]

>> Next item is item 76. This is to conduct a public hearing and consider an ordinance amending city code 25-2 to make cocktail lounges a conditional use in the rainey street subdistrict of the water front overlay. And this came out of some meetings we held in the rainey street

neighborhood. We discussed transportation issues which you received debriefing on recently, parking, lighting, et cetera. One issue was the proliferation of the bars in the area, in addition to if bars you see there today, there are about 10 to 12 permitted bars that have not yet been built or opened, so the

-- some of the owners of condos in the condo towers over there went to the planning commission and requested that the cocktail lounge be made conditional use even though it is cbd and normally wouldn't be a conditional use and so the planning commission initiated that amendment. We took it to the waterfront overlay. They could not make a recommendation, they were split and then we took it to the subcommittee and they didn't recommend it and then we took it to the planning commission and they turned around and did recommend it. The reason why I believe there was some consideration of not recommending the ordinance was the -- a lot of terms were used but the horses left the bar and the toothpaste is out of the tube. The water is under the bridge, et cetera, et cetera. I have heard them all at three different hearings on this. [Laughter] so there is a concern like why, why, why, why bother at this point. Every lot over there is waiting for a future high-rise to buy it or a bar today. There is quite frankly not many old houses left there that are unspoken for that would be right for a bar. If you have a vacant lot, you would not open a bar on it. These are mostly conversions of old houses because most of them are hoping to sell and not be cocktail lounge in the long term. In the end planning commission has recommended and staff recommending it and I am available to you if you have any questions.

[13:47:48]

>> Mayor leffingwell: Questions? A number of people signed up to speak. Clay dafoe is not here. Susan almanza not here. Daniel yanez, not here. David king. You are becoming a regular, mr. King.

>> This item also first

-- thank you. This item also came before planning commission and had not come before the downtown commission. Again, the planning commission asks why, so, again, my point earlier is if you can do something to get the process where the downtown commission can hear it first and then send it on to the planning commission, I think that would add more value to the acoustic pro. Thank you.

>> Mayor leffingwell: I think the normal process does not call for a mandatory presentation to the downtown commission but it is an optional thing and it is normally done as a courtesy, but i, for one, would not be in favor of adding yet another to an already tortured process that folks have to go through in this town to get

-- to try to get anything done. Certainly I am in favor of

-- if it's convenient and timely, a courtesy presentation to the downtown commission. But that's just my comment.

>> Mayor.

>> Mayor leffingwell: Council member morrison.

>> Morrison: I know this was an issue that came up at the planning commission and they had a discussion about it because I think there were like five items one night that had do with the planning commission

-- that had to do with downtown and none of them had gone

-- and I think they've got something in place that's going to be workable now. Is that correct?

>> Yes, we have five items that need to go down

-- that were downtown related and one of the planning commissioners asked for each one of them

-- who is on the downtown commission

-- she said it needs to go to the downtown commission and she sent three of them and let two of them out because she didn't want to hold them all five. We agreed we would take it to the planning commission. We were able to. Sometimes their deadlines are tight, only meeting once a month but we will take code amendments to the downtown commission when possible. This had the water front overlay in addition to the planning commission and the subcommittee. So.

[13:50:09]

>> Morrison: I appreciate that and if you look at the downtown commission's mission and purpose in the code that we just recently did, there is a lot of things that make sense, and I appreciate that you are taking into account the timing and making sure that it doesn't slow things up.

>> Anita white.

>> We had asked to go in a certain order, respy tally, anita white and don.

>> Mayor leffingwell: That will be all right. Rusty tally.

>> Good evening. I am rusty tally. I am on the rainy neighbors association and I have been a neighbor of rainy for many years and I have been involved with council and planning commission about the proliferation of bars. The neighborhood on a whole supports the bar scene. That's not really the issue. The issue is having some form of governor or@ control, to use council member morrison's comments, the proliferation of bars. To staff's comments about the horse being out of the barn, we have counted at least 30 lots or structures in the waterfront or rainy street overlay, whatever you want to call it, that could become bars. So as residents, we feel very strongly that the horse is not out of the barn. There is a lot of damage to be done yet and we really believe that bars are fine. Restaurants are fine. But there are a lot of other uses for structures down there and there should be some ability

-- some option to be able to say, okay, we have enough bars. Maybe we need some other kind of businesses down there to keep it healthy, because, first and foremost, rainy street is still a residential area. If you count all of the condos that are down there and the single family homes, we are a residential area who love having some bars and having restaurants but we do feel like we need some form of control and conditional use which, by the way, we've actually been working on this for several years and have been very frustrated that we haven't been able to get to that point. So we are very excited to think that we can finally get to the point where bars become a conditional use so that there is some form of governor or control over how many of them do proliferate down there. So we would appreciate your support and we are

-- as a resident, we have very much in favor of the conditional use. Thank you very much.

[13:53:03]

>> Mayor leffingwell: Council member martinez.

>> Martinez: Hey, rusty, sorry, bud. I want to ask you a question. So obviously the intent of cbd was for redevelopment of rainy and consequently redevelopment of the infrastructure sidewalk, structured parking, things of that nature. With this before us today, it means

-- and I

-- correct me if I am wrong, jerry, but it means whatever happens in the future, if there is a cocktail lounge, a cup would be required, even if the development that we seek in the rainy

area, high-rise structured parking were to occur? Is that your intent of this as well? I will give you the direct example. The project up on the northeast side, you know, where luster pearl -- that's kind of making its way through the process, you know, that's the kind of redevelopment we envision for rainey when we rezoned it cbd. In order for them to put a cocktail lounge in their structure, enclosed within their structure, they will have to come back for a conditional use permit. Is that your intention, or is it just the bars, as you see them today, with the existing structures being kind of refurbished and remodeled and this outdoor/indoor type environment?

>> Well, I can only speak for myself and for many people that I've talked to but I think that that would be totally appropriate. Yes, we are looking for high-rise developments but if they want to put just a pure cocktail lounge in rather than a restaurant that serves cocktails, yes, I think that probably is very appropriate for a residential neighborhood, to come back and say, hey, we want to do this and let the neighbors have input because at that time if there are really 25 bars down there, maybe it is not appropriate and maybe we should have input, so, yeah, and the other thing that conditional use does for us, that I didn't mention, is that if

-- if a

-- if a permitted bar now goes out of business, and we all know they come and go, and that bar does not reopen within 90 days, then that structure now becomes conditional use, which gives us, again, a back-end way to sort of monitor and

-- and have input on what our neighborhood looks like.

[13:55:28]

>> Martinez: Okay. Thanks.

>> Thank you.

>> Mayor leffingwell: Okay. Who wants to speak next among those signed up? Anita white? Okay.

>> I am Anita White and I moved into the villas on town lake in 1999, and last year, about a year ago tonight, I became on the board of the Rainey Neighbors Association and in October, I became the board president. Rainey neighborhood for a long time was a very sleepy little area when I moved in there from '99 to about 2005 when we were rezoned on the Sen Value Business District. On the southeast corner we have the towers of town lake and the northwest corner where I live, we had the villas on town lake. At this time we have 900 households in our area, coexisting with currently 12 bars and most of these bars are outside music venues. They are not just enclosed bars that are soundproofed. They have outside music venues as well, the majority of them. There is either 4-12 bars in the pipe somewhere. I can't really

-- the city says there is 12 in some kind of process. But at the planning commission, we did talk about the horse being out of the barn, many other things, and we ask your support to keep it in the corral. We just want a tool. We just want a tool that we can have some kind of a say in our community, some kind of a say in our neighborhood that we have invested in and that's what we are asking

-- the board is completely in support of this. Now we have 900 households in that Rainey neighborhood which is very small, if you walked around it, it is not very large. By next year, when Sky House Austin opens, we will have 1220 households, and there is a couple of other projects that may be developing in the next two or three years. We could have 1800 households. That could be 3,000 to 3,500 people or more coexisting in very close proximity with these bars and we are not talking about a long

-- about a ban on cocktail lounge. We just want a tool that we have some kind of a voice in our

neighborhood and we ask for your support in getting that done tonight. Thank you.  
[13:58:01]

>> Mayor leffingwell: Thank you. So don gorilo or andre sousa.

>> Mayor leffingwell: You have to be one of those two.

>> Good evening, I reside in the rainey street area and the rainey association board.

>> Mayor leffingwell: What is your name?

>> Don grillo.

>> Mayor leffingwell: Okay.

>> My perspective on it is that it's really a matter of statistics matching up with the neighborhood needs. Rainey street is approximately 9 square blocks. They are pushing 2,000 residents today. Probably in a couple of years there will be 3,000 residents, two new hotels are probable in the next couple of years, and I think the residents and the hotel guests need to have a very business environment. And those businesses would be nice if it could be a two-minute walk for all of these people that live in the neighborhood, and i believe that the businesses will be used by that many people. 3,000 people is not a trivial amount. And I don't think that rainey street should be viewed as just a bar neighborhood. If it is and if we allow too many more bars to go ahead and open up, then other businesses that might be interested will be pushed away, thinking that, well, it is just bars there. There is nothing else happening there. I am going to take my business elsewhere. And also, bar attrition should not

-- should be a situation where there is openings for other types of businesses. And basically, in summary, i just think we need a very

-- a very

-- varied business options in the neighborhood, and let me close with a pretty much over the top, maybe even silly situation. But when I look at it, if you have 3,000 people on a hot summer night all going out for a cold beer, you will see 3,000 people walking around rainey street going into one bar or another. If those same 3,000 people simultaneously are looking for a quart of milk, you will see 3,000 people in their cars leaving rainey street and driving to some store somewhere and coming back 20 minutes or a half an hour later. That doesn't strike me as a neighborhood friendly or a proper type of neighborhood that has 3,000 residents in it. It just doesn't make any sense to me. So we would appreciate your support to

-- to make this a conditional use area. Thank you.

[14:00:59]

[One moment, please, for change in captioners]

>> cole: Mayor, I want to move approval with an amendment that the conditional use would only apply to structures 5,000 square feet or less.

>> Mayor leffingwell: A motion by the mayor pro tem for

-- to approve item no. 76 with the additional statement that conditional use only applies to structures with over 5,000 square feet. Is there a second

--

>> cole: 5,000 feet or less.

>> Mayor leffingwell: Excuse me?

>> Cole: Conditional use would only apply to structures 5,000 square feet or less.

>> Mayor leffingwell: Less

-- did I say more?  
[14:02:59]

>> Cole: Yeah.

>> Somebody clarify that it's not a cocktail lounge

-- it's within a building it's 5,000 square feet or less. Right? Use yes.

>> Mayor leffingwell: Is there a second to ma motion? Is there a second to ma motion?

>> Spelman: Help me understand, if I could, why

--

>> mayor leffingwell: I'll second. Council member spelman?

>> Spelman: Okay. Why do we need to do it this way?

>> Cole: Well, we're saying it's a conditional use to have a cocktail lounge, and what we're doing is disincentivizing the existing cocktail lounge but at the same time earlier we said we wanted to max out rainy street with development and density, like the w. Well, the w has a cocktail lounge. And so if we pass this without an exception for large

-- or tall buildings, they won't be able to have those uses within them.

>> Spelman: Well, they could, they'd just be conditional. There would be an additional hoop they have to jump through in order to put the cocktail lounge and the w rainy street. But it would be doable.

>> Cole: It would be doable. Am I understanding that right, jerry?

>> Yes, it would be doable. It would require an additional step of the planning commission approval. If the planning commission denied it it could be appealed to council, but it requires that additional step of additional permitting, requires the additional step of planning commission, public hearing and approval. So under what you are proposing, basically if you had one of these houses, which was converted to a bar, what we see most of over there, that would require a conditional use permit. If they were putting bar in a highrise, say a new hotel under your proposed amendment that would not require conditional use.

>> Mayor leffingwell: That's the way I understand it. Council member tovo?

>> Tovo: Mr. Rusthoven, is this a

-- something that was contemplated by the planning commission? Has anybody brought this up before as a real imperative

--

[14:05:03]

>> yes, if I recall, ms. Michelle lynch who was representing

-- she was representing the texas bar owners' association but she also represents the property owner who has a planned highrise on rainy street itself and she brought up in the codes and ordinance at a subcommittee meeting the fact that she would be

-- her client would be building a highrise and it would require a cup when it doesn't require it other places downtown. She brought that up at the committee hearing. The committee voted to not recommend this but then the full commission did vote to recommend it.

>> Tovo: But the commission

-- the commission that was tasked with reviewing this and listening to the feedback and considering the input of the rainy street neighbors heard that argument and still stopped that conditional use should apply across the board, regardless of the size of the structure and not to make a special exception?

>> I believe she made the argument at the subcommittee meeting. I don't think it came up at the total commission meeting. I recall she wasn't there, but yes, the commission initiated this and the full commission in the end did vote to recommend it.

>> Tovo: And it sounds to me, if I'm understanding you correctly, like it was

-- as if it was the interest of a particular property owner, it was not a widespread concern about land use?

>> Yes, she brought the example that it wouldn't be fair to that particular landowner because he or she would have to get a cup for cocktail lounge and large building whereas someone in another part of downtown would not.

>> Tovo: That would be true of anyone trying to open a cocktail lounge in that area.

>> That's true.

>> Tovo: Where they wouldn't necessarily have to in other areas.

>> That is true.

>> Tovo: My preference is to stick with the initial recommendation from planning commission.

>> Mayor leffingwell: Are you proposing an amendment to the motion?

>> Tovo: Yes.

>> Mayor leffingwell: So the motion

--

>> tovo: I'm trying to think how do I

-- how

-- can I do that? You had recommended

-- you had staff

--

>> mayor leffingwell: Wait diswrament.

-- Just a minute. You can propose an amendment. The motion that's on the table right now is applies only to structures under 5,000 square feet requiring a conditional use permit.

[14:07:17]

>> Mayor, a point of order.

>> Mayor leffingwell: Council member martinez.

>> Martinez: I think there is a substitute motion

-- i mean, an amendment on the table right now. We had an original motion and then there was a comade

--

>> mayor leffingwell: She made that a part of the original motion when she made it.

>> Martinez: I see. So it's not an amendment. It's just incorporated in the

--

>> mayor leffingwell: No.

>> Martinez: Understood. Story.

>> Tovo: I was concerned about that too. That's why I had that questioning look. I guess I would

propose a friendly amendment that we remove the amendment you added when you made the motion.

>> Mayor leffingwell: All right. I think

--

>> tovo: With regard to the 5,000 square feet. [Inaud [inaud ible] what you mean, the amendment proposed by council member tovo, is there a second? Second by council member morrison. I believe you were first. Is there any further discussion on that? Let me just say I'm going to support the original motion because to me it's very logical, if we're trying to incentivize large buildings we don't want to put an a restriction on the large buildings that would be in competition with other parts of the cbd. Council member martinez?

>> I want to point out that we are currently contemplating conditional use permit for cocktail lounges throughout the downtown area, so

-- and the item that we're taking up after this is actually really very apropos in that we're going to waive all parking requirements in the cbd and dmU, which is exactly what we did in rainey street that created the problem we're trying to address tonight. So I just wanted to throw that out there for additional reflection. Reflec reflec tion. Okay. [Laughter]

>> thank you, mayor.

>> Mayor leffingwell: That's discussion. Okay, an amendment on the table. Are we ready to vote on the amendment by council member tovo. All in favor of that amendment say aye.

>> Aye.

>> Mayor leffingwell: Aye. Opposed say no.

>> No.

>> Mayor leffingwell: No. It looks like that passes on a vote of 4-3 with council member riley, myself and the mayor pro tem voting no.

[14:09:25]

>> I guess we pass that on first reading only?

>> Mayor leffingwell: We haven't gotten to vote on the motion yet. All right. So now the main motion is just the original staff recommendation. All in favor of that say aye.

>> Aye.

>> Mayor leffingwell: Aye. Opposed say no. That passes on a vote of 7-0, closing the public hearing, approved on all three readings.

>> Thank you, mayor.

>> Mayor leffingwell: So that brings us to item 77. We do have speakers.

>> Good evening, mayor and council, I'm george zapalac, department of planning and development review, here to present item 77 which is to conduct a public hearing and consider an ordinance amending city code chapter 25-6 related to downtown parking and off-street loading requires. This item originated with a council resolution last year in which staff was directed to develop an ordinance to reduce or eliminate minimum parking requirements in the cbd and dmU districts. The current regulations in these districts do grant certain exceptions already to parking requirements. There's no parking required for historic buildings and there's no parking required for uses of less than 6,000 square feet in buildings that existed prior to 1997. In addition residential uses only have to provide 60% of the normal requirement that a use would have to provide if it were outside the downtown area. Other uses only have to provide 20% of the

normal requirement, and there is also a cap that they can provide no more than 60% of the normal requirement. In addition there is some different requirements for loading spaces in the cbd and dmU district. Our off-street loading requirements have not been updated for many years and, in fact, in some cases the loading requirements for the downtown area exceed what is required outside the downtown area. In researching the concept of eliminating parking requirements downtown we did look at other cities which have done this already and looked at some of the possible consequences, either positive or negative, that might occur, and some of the things we identified is that the

-- eliminating the parking requirement could result in lower development costs. The city of portland, for example, they eliminated parking requirements for residential structures and found that lower cost housing resulted in a number

-- and a number of units have been built without providing any parking. Greater use of alternative transportation, which is one of the primary reasons for this amendment, is a possible consequence. More pedestrian friendly lane uses, since

-- if you have fewer parking spaces and parking lots, there would be fewer vehicles crossing the sidewalks. Be there could perhaps be an increased cost of existing parking spaces based upon the market demand if fewer parking spaces are provided, then the existing supply would increase in value. However, we anticipate that most businesses would continue to provide a certain amount of parking even if the city did not require it. We did talk to some learned lenders and they indicated before they would make a loan to finance construction of new buildings they would want to make sure that a certain amount of parking was available in order to determine that the project was economically viable. One concern is that there might be increased traffic congestion if there were fewer spaces available and people had to circulate around looking for a vacant space, but we think this could probably be minimized by wayfinding and other devices that

-- electronic devices that direct people to available parking spaces, which the city is currently developing. There was also a concern about possible spill-over of on street parking into surrounding neighborhoods, but the single-family neighborhoods that are

-- that remain in the downtown area already have residential permit parking. So that that is one means of controlling the spill-over effects. There could be an incentive for more parking garages, but there could also be less parking for people with disabilities. Some businesses that are currently required to provide accessible parking would no longer have to if all parking requirements were eliminated, and in rainy street, for example, some of the buildings that were converted to bars or other uses, the only parking they were required to provide was parking for the disabled. Staff did not feel that the negative consequences were significant and that they could be addressed, and so we made a number of recommendations, first to eliminate the minimum motor vehicle parking requirement for cbd and dmU as well as for p public uses in the downtown area. The

-- since

-- just last year the parking requirements were amended for p-public to make them the same as for cbd and dmU, so we felt if we were eliminating them from cbd and dmU, then we should also eliminate them for the p district. We did recommend maintaining the maximum limit on motor vehicle parking so that there is some sort of cap on the number of spaces that are provided and that we don't see an abundance of surface parking lots in the downtown area. We recommended that a minimal amount of parking be maintained for the disabled as well as for bicycles. Another item that was brought to our attention is off-site parking in the downtown area, parking which is located on a different site from the main use that it serves is currently a conditional use in the

downtown area, and if we are going to be eliminating the parking requirements, then the suggestion was this does not need to be a conditional use any longer. Staff concurs with that and recommended that it remain a permitted use. And we proposed some modifications to the off-street loading requirements to simplify them and provide a little bit more flexibility so that a project does not have to make the trip to the board of adjustment in most cases. We did solicit stakeholder input from urban transportation commission, downtown commission, downtown austin alliance, the downtown neighborhood association and other groups and everyone was generally supportive of the amendment. The planning commission did endorse the staff recommendation, but suggested that a follow-up evaluation be conducted two years after the ordinance is

-- goes into effect so that any possible consequences could be evaluated and addressed. Since the planning commission meeting we have received some recent input from downtown stakeholders, just in the last few days, and I think that some of the speakers may be proposing some further amendments to what is before you tonight, the planning commission's recommendation, and I understand some council members may also want to make some further amendments. So I would be glad to address those after the public hearing.

[14:17:42]

>> Mayor leffingwell: Okay. We do have

-- council member riley?

>> Riley: I want to ask a few questions. George, first I want to thank you for all the work you've invested in this evident over the past year

-- effort or the past year. It's been a long difficult process and I appreciate your hard work on it. I want to ask a few questions. First, you made a couple references to a cap that currently exists on parking downtown, and you mentioned that that's

-- it's currently at 60% of the cap that applies

-- would otherwise apply to parking. Is that correct?

>> That is correct, yes.

>> Riley: But isn't it the case that that cap doesn't apply if we're talking about structured parking?

>> That is correct. The cap can be exceeded if all the parking is located in a structure.

>> Riley: Okay, and then

-- so in reality that instance with downtown projects, that's sip cli what we've seen is structured parking so that cap has not really had any impact in recent years; is that correct? That's correct.

>> In effect there has been no cap as a matter of practice?

>> As a practical matter that's correct.

>> Riley: Okay. Secondly, on your slide about

-- about the possible consequence I wanted to ask you about one item on that that struck me as popular, yet you indicated that

-- as peculiar, yet you indicated that a possible consequence of these measures would be to increase congestion. That struck me as odd because there's a lot of interest in this subject nationally lately and one of the reasons it's aly pointed out as a

-- why cities might want to reduce their parking requirements downtown is that an abundance of parking leads to increased congestion. So many cities are rducing or eliminating their parking

requirements as a means of reducing congestion. That's right now, if you google right size parking you'll see a story that went up in the last few days that says overbuilding of parking supply leads to increased ownership ownership and congestion. That's what all the scholarly articles say. I haven't seen any suggestion that actually decreasing the parking supply would actually increase congestion. So I had to ask you about that. Do you have some empirical basis for saying that the reduced parking supply increases congestion?

[14:20:06]

>> What I was trying to say is this was a concern that was raised, you know, would it -- by eliminating the parking requirement, would we see less parking downtown and would people then have to drive around more looking for a parking space, and we felt that, you know, because there are ways, there's new technology available, there are signs, there are different mechanisms for directing people to available parking, we didn't think that would be a concern.

>> Riley: Okay. And then lastly, one of your recommendations was to make off-site parking a permitted use, and I want to make sure I understand the current

-- the impact of the current staff recommendation on that. As I understand it, what that means is if

-- if I'm building a building and I want to use off-site parking, that the thrust of the staff recommendation is that I wouldn't

-- I would be permitted to do the parking off-site. But I guess

-- I just want to make sure, is that the situation that you're contemplating when you suggest making off-site parking a permitted use?

>> Yes. At the present time it's a conditional use, which requires the applicant to file a site plan and take it before the planning commission. And, of course, the commission can turn it down. So it would

-- under the proposed amendment it would be allowed by right. It would not be a discretionary item. It does have to be located within a certain distance of the principal use still. It has to be located within a thousand feet. The applicant does have to submit a simplified site plan but it's an administrative approval. It does not have to come before a board or commission.

>> Okay. So suppose there is an existing building out there that has excess parking capacity and wants to make that parking available to the public. Under the staff recommendation would they be able to do that as a matter of right?

[14:22:10]

>> Well, then you get into some definitional problems here because there is

-- there's off-site accessory parking, which is parking serving a principal use located on a different site, and then there is another category called commercial off-street parking, which is your all right parking lot or a stand-alone parking garage. And so when you start leasing out spaces, you know, to the general public rather than to a specific user, that becomes commercial off-street parking, and that is a conditional use still and we're not proposing a change to that at this time.

>> Riley: I understand. Okay. Thanks, George.

>> Mayor leffingwell: Okay. You mentioned that routinely if a structured parking, the maximum amount of 60% of what [inaudible] say requires

-- I think it's more correct to say what the ordinance says is it may be approved by the director if it's

-- but it's not automatic. It has to be a special approval.

>> That is correct. The ordinance says the director may allow the 60% limit to be exceeded if all the parking is located in the structure. As a matter of fact, you know, it's been an automatic approval. We've not had any basis for

-- for disapproving it. You know, hypothetically we could envision a situation where perhaps someone had a very small commercial or office development and multiple stories of parking above that. Might be something we would scrutinize. It's never happened so far, but hypothetically it could happen sometime in the future.

>> Mayor leffingwell: Okay. So I don't want

-- I want to hear from our speakers first, but I think I'll have more to say about that later. And we can go to our speakers if there are no more questions of staff. And the first speaker is clay defoe. I don't believe he's here. David kin?

[14:24:41]

>> Thank you, my name is david king, and you're going to be very surprised about what I'm about to say, but this item 2 did not go before the downtown commission before it went to the planning commission. And I appreciate what i heard earlier. There's some willingness to work with that. Thank you very much, but i would just add to that that there were some items that i think are so important that they really should go through that process first. I think this is one of those. But I would just have a couple suggestions. What about increasing shuttles in central austin to help facilitate moving people around better? And like the dillo, something like that. So it's focused in the downtown area to shuttle people in and out of the neighborhoods around into downtown, and seems like we should have more bicycle parking instead of minimum bicycle parking as was

-- as I understand. So I think we should add more to encourage people to ride their bicycles. The other question I really have is, is this

-- is this going

-- is the council intending to expand the elimination of parking requirements outside of downtown, in the central austin areas? So I hope that a council member could maybe speak to that as well. Thank you.

>> Mayor leffingwell: Next speaker is larry graham. Donating time is charles betz, so you have up to six minutes.

>> Thank you. Good evening, mayor, members of the council. I'm larry graham, chair of the downtown austin alliance. And as you know we represent the downtown property owners and businesses, and we would like to tell you why we are supporting most of the proposed changes in the staff recommendation. Obviously the most significant change before you tonight is the elimination of off-street parking requirements in the cbd and dmu zoning districts, and the daa supports those. Some may have seen this proposal as a way to pressure people out of their cars or lessen the amount of available downtown parking, but we do not believe that changing the ordinance will affect the downtown parking supply. The ordinance will not change the amount of

parking developers choose to build for new projects. If and when austin develops into a city with a more mature transit system, lenders and developers may have lower parking requirements in the future. Excuse me. The appeal of this proposal is that it offers flexibility for the market to adapt without code variances or further city council action. A vital area of concern is the staff proposal to impose a parking maximum on the downtown residential projects. This is already in place for commercial projects. We don't believe that there should be a maximum on either the residential or the commercial. Although the maximum as was stated earlier, the maximum can be waived administratively. The proposal hinders predictability and could be detrimental to downtown development. We strongly request that you eliminate all parking maximums, and you could do this

-- our attorneys tell us, by simply striking sections b3 and c from part 2 on pages 1 and 2 of the draft ordinance. Even with the elimination of parking minimums and maximums, we are left with a problem for historic and small buildings and we ask that you keep the language exempting historic or small buildings from providing parking, include an accessible and bicycle parking, and increase the size of the small buildings from 6 to 12,000 square feet. It really is much more difficult to provide parking for these smaller, older buildings. We support the staff proposals to change off-site accessory parking and commercial off-street parking from a conditional use to a permitted use and to grant administrative authority to modify the number and size of off-street loading spaces required for a new project. These kinds of modifications should not require council action. We have one more suggested change to this ordinance because many of the recent projects have requested the off-street loading facility and trash receptacle to be located, loaded and unloaded from the alley. The daa supports a change that would allow this by right. So in summary we are supportive of the staff recommendation. There's just a couple things that we do want you to consider. Again, we want to eliminate the parking maximums along with the parking minimums. We'd like you to exempt historic and small buildings under 12,000 square feet from providing any type of parking, and also allow the loading from the alley. So we appreciate your time and your consideration. Thank you.

[14:29:44]

>> Mayor?

>> Mayor leffingwell: I have a question for you. I understood the first part, eliminating in part 2, subsection b3 and section c. But I'm trying to make sure I have straight what you said in the second revision that you would like to see, which is part 2, section b1; is that correct?

>> Yeah

-- [inaud [inaud ible] proposal strikes 1a and b?

>> Yeah, we were

-- I think what we

-- what I was trying to say is we want to eliminate the maximums, and I think that was section b 3.

>> Mayor leffingwell: Yeah, that was b 3, but I'm getting to the part where you were talking about keeping the language for designated historic.

>> Right.

>> Mayor leffingwell: And also increasing small building from 6,000 to 12,000, which would be exempt.

>> Right. We

--

>> mayor leffingwell: So that would mean where it currently shows that that language struck out 1a for use occupying a designated historic landmark or locating a building in a designated historic district, that's a, and b is off-street parking that's not required for use occupying less than 6,000 square feet, the floor space and the structure that existed on april 7, 1997, i assume you want to change that to 12 instead of 6 but retain the language?

>> Yes. Yes.

>> Mayor leffingwell: So that's correct, you would restore that language that's currently struck in the proposal and change the 6 to 12?

>> I believe that's correct. What we were recommending was not about the historic. It was more about the maximum, when I cited that. So yes, you're correct, mr. Mayor.

>> Mayor leffingwell: All right. So those

-- those

-- those several changes would have the effect of no minimum requirement unless you're a designated

-- no minimum requirement, but it would especially call attention to designated historic landmark or a building of less than

-- less than 12,000 square feet. That's sort of redundant language, I guess, since there's no minimum requirement, you see some value in keeping that language in the ordinance.

[14:32:14]

>> Yes.

>> Mayor leffingwell: I hadn't heard that before but I want to make sure i understand what you're saying.

>> Yes.

>> Mayor leffingwell: And the

-- the other part to eliminate all references to a maximum and let that be a purely driven

-- market-driven number. Okay. Council member spelman.

>> Spelman: So what this would read more or less is no off-street requirements for historic landmarks, historic districts or small buildings and no off-street requirements for anybody else either, right?

>> Yeah, that's what I said.

>> Mayor leffingwell: Kind of redundant.

>> Spelman: With the value of leaving in the [inaudible] historic landmark districts and small buildings?

>> Well,

-- minimum parking for anybody, period. Simple.

>> I think our major issue has to do

-- and again, these are buildings that are already existing, so I don't think this would come in effect until there's a change of use. Is that correct? I think what

--

>> spelman: Yes.

>> Yeah, go ahead.

>> Hi.

>> Mayor leffingwell: If you would just introduce yourself and I'll just ask you what you're about to say.

>> I'm julie fitch with downtown austin alliance.

>> Mayor leffingwell: Yes.

>> The way it's written today is that these small buildings and historic buildings would be required to provide accessible parking and bicycle parking, whereas today they're not required to provide any parking.

>> Mayor leffingwell: Okay. So what this

-- your reading of the ordinance is that right now they don't have to provide anything, but if this ordinance passes in its current form they would have to provide accessible parking? I was under the impression

-- my reading of this is if off-street parking is provided, if they're providing any kind of parking, there has to be a certain number of disabled spaces, but they're under no obligation to provide any off-street parking at all.

[14:34:15]

>> Well, the second sentence, if no off-street parking is providing

--

>> mayor leffingwell: What section are you reading in now?

>> B2.

>> Yeah.

>> Starts off if off-street parking is provided, shows how much, and then if no off-street parking is provided, and it gives you a number, a calculation for how much you would have to now provide.

>> Spelman: If no off-street parking is provided you must still provide off-street parking. It does seem a bit odd. I see your point. George, could you help us

-- explain to us, why is it written this way? How can it say if no off-street parking is provided you still have to provide off-street parking?

>> What we were trying to do was to maintain the status quo. Right now if you're smaller than 6,000 square feet or you're historic, you don't have to provide any parking at all, either for the disabled or anyone else.

>> Spelman: Right.

>> What we were trying to do, and I don't think we quite captured it, but what we were trying to do was say that currently if you're large 6,000 square feet, you have to provide a certain amount of parking and a certain portion of that has to be parking for the disabled. We wanted to keep the requirement that you provide parking for the disabled. And so we had to kind of write into the complicated formula how you calculate that since you no longer have required parking issues you still have to have required parking for the disabled.

>> Spelman: And this would apply to everybody, even small buildings, even buildings in historic districts?

>> The way it's currently worded, yes, it would, but we would certainly be amenable to exempting those uses and square footages that are currently exempt, historic buildings and buildings less than 6,000, we agree they should continue to be exempt, but we are concerned that

other larger uses that are today required to provide accessible parking would no longer have to.  
[14:36:19]

>> Spelman: So larger uses would have to provide basically handicapped parking spaces but they would be under no obligation to provide any other kind of parking spaces?

>> Correct.

>> Spelman: Okay. While I've got you here let me ask you a question about the maximum. If we were to eliminate the maximum as the dda is recommending, you made a comment about proliferation of surface parking lots. Explain to me how elimination of section b3 and section c would lead to such proliferation.

>> Well, I think what I was trying to address was the

-- the issue that right now you can exceed the 60% limit as long as all the parking is within a parking structure. If that

-- yes, you may. You may exceed the limit if all the parking is in a structure. If we

-- if we remove that cap, then that no longer applies and you could provide more surface parking. You could

-- you would not have to be contained within a structure. You could provide it on the surface.

>> Spelman: So

--

>> and I think that was the original intent for why the ordinance was written the way it is.

>> Spelman: You answered my question. Now I have to think about it. Thanks, george.

>> Mayor leffingwell: And i want to go back to this part b. Part 2, I think what I understand

-- I just want to get this clear. What the proposal by the daa is to retain section b entirely as it was before.

>> And I'm not sure that's the best way to get at what they're asking for. I think there probably would need to be some rewording, but I understand what they're asking for, to not require any

-- what they're asking for is not require any parking, either for the

-- for able-bodied users or for the disabled if there is

-- if the building is less than 12,000 square feet.

[14:38:34]

>> Yes.

>> Mayor leffingwell: So the only change to the existing language

-- the way the ordinance is written right now would be to strike 6,000 square feet and put 12,000 square feet. Section b2 would go away. All the underlined parts in section 1 would go away, and a

-- 1a and 1b would be restored except b would be changed to 12,000?

>> Well, I'm not sure that really gets to what they're

-- they're asking, though, because everything above 6,000 square feet has the parking requirement

-- i think there may be a better way to draft it if that is what council would like to do. If

-- if

-- if that is what council would like, then i think we maybe should take this on first reading and do some wordsmithing and bring it back to you.  
>> Mayor?  
>> Mayor leffingwell: Council member riley.  
>> Riley: If I could, I'd like to take up  
-- take george up on his suggestion and go ahead and move approval on first reading only. I would like to offer a few amendments, but just to get the ball rolling I'd like to move first reading  
--  
>> mayor leffingwell: You can include your amendments in your main motion if you would like.  
>> Cole: I'll second that, mayor  
--  
>> mayor leffingwell: Okay, so you want to approve the staff recommendation?  
>> Riley: Yes.  
>> Mayor leffingwell: And second by the mayor pro tem?  
>> Riley: On first reading only.  
>> Mayor leffingwell:  
--  
>> riley: Close the public hearing and approve on first reading only based on staff recommendation and I'd like to offer a few amendments.  
>> Mayor leffingwell: Go ahead.  
>> Riley: First, just to address that issue we were just discussing, I think  
-- I understand the daa  
-- the concern expressed by the downtown austin alliance. We've also heard from a number of property owners downtown who have voiced similar concerns and the issue is that there are older buildings that  
-- that just typically were built without parking, because they predated parking requirements, and the use of those buildings is very constrained. The way the road reads, that it's the use that's limited to 6,000, and so what you wind up with is cool old downtown buildings, parts of which sit vacant because the owners are just unable to provide the additional parking that would be required if they introduced any use that was larger than 6,000 square feet, and they would like to be able to bring additional life to those old buildings, but the code won't allow them because they're not able to add that additional parking. So I would like to move that we  
-- that we basi approve what the downtown austin alliance suggested, which is that if we  
-- instead of deleting subparagraphs a and b in  
-- paragraph b1 of part 2 and we keep those and then we increase the square footage of the exemption from 6,000 to 12,000 square feet.  
[14:41:49]

>> Mayor leffingwell: And you would keep part 2?  
>> Riley: Yes.  
>> Mayor leffingwell: All right.  
>> Riley: Well, this is just  
-- just relates to  
-- yes, this relates to paragraph b of part 2. Paragraph

-- it's simply paragraph b1 of part 2. Just the two  
-- the two subparagraphs that are struck out, I would keep those paragraphs and then change exemption from 6,000 to 12,000 square feet.  
>> Mayor Leffingwell: And you would keep part 2? Because that's all new proposal. Part 2 is  
--  
>> Riley: Actually I'm going to have a different suggestion about that next paragraph. That really is a different subject.  
>> Mayor Leffingwell: Okay, so your motion right now is to amend part 2, section b1 to restore the existing language in that part from 6,000 to 12,000.  
>> Riley: Keep subparagraphs a and b but change the exemption from 6,000 to 12,000 square feet.  
>> Mayor Leffingwell: All right. I'll second that.  
>> Mayor?  
>> Mayor Leffingwell: Council member Spelman.  
>> Spelman: Let me see if I know what you will be getting at with 2. If I have a building of 10,000 square feet or use of 10,000 square feet, will I be  
-- I just  
-- am I  
-- I'm not required to provide any parking at all. So section 2, currently, however, says, but I've still got to provide handicap spaces. What will eventually your [inaudible] be with respect to that?  
>> Riley: Actually my suggestion would be that part 2 would be applicable in other situations to buildings greater than 12,000 square feet. I was going to offer other language that addresses that.  
>> So my 10,000 square feet use would not speak to parking spaces. I'm free and clear of the problem.  
>> Mayor Leffingwell: What going on, part 2, section b 1.  
>> Cole: I have a quick question.  
[14:43:49]

>> Mayor Leffingwell: Mayor pro tem.  
>> Cole: George, you mentioned that changing the language as currently contemplated, you would like to see that drafted differently and more discretion to draft that differently because it might cause problems. Can you help us understand what you mean by that? Are you  
--  
>> well, I think the concept that you're getting at is that there would be no parking at all required for a use of less than 12,000 square feet. If that's  
-- that is the concept, then I think we can put that into language that accomplishes that. But there's probably a clearer way to do it than reinserting these sections that were struck out.  
>> Cole: But your clearer way, you have the flexibility to do that with the vote we're about to take?  
>> Yes.  
>> Mayor Leffingwell: Well, we're voting on council member Riley's amendment right now, or about to vote on it. And I would add that the way I  
-- this is for clarification. There's two parts to that, the 12,000-square-foot part, and the other part

is if it's a designated historic landmark, and I would read that to mean even if it's more than 12,000, it still wouldn'tquire.

>> Right.

>> Mayor leffingwell: So let's try to proceed somewhat methodically and vote on that. Council member morrison.

>> Morrison: I am a little concerned about the disabled parking overall, and in this particular situation, if we

-- we're saying just the point that the mayor was getting to, we may have a very large historic building

-- isn't like the scarborough

-- don't we have some really huge historic buildings downtown?

>> Norwood.

>> We do have a few.

>> Morrison: Norwood, right. So I guess I'd throw that out there that we're basically saying that -- i mean, I get it that if we're talking about a really small footprint historic building

--

>> but that is the current language in the code right now, they're not required to provide parking at all.

>> Morrison: They're not required to provide parking, disabled or abled.

[14:45:54]

>> Correct.

>> Morrison: Okay. I'm going to go ahead and support this. I think that

-- and I'm glad if we do this only on first reading because I think the disabled parking issue is something that I'd like to explore a little bit more.

>> Mayor leffingwell: Okay, and I'll just say, I don't know how they could do that. I don't know how the scarborough building could provide disabled parking, off-street, unless they put in a parking garage on the first floor or something like that. [Inaudible] littlefield building or

--

>> morrison: Mayor, if i may, wouldn't they be allowed to get some off-site parking that would satisfy it?

>> Yes, if they had

--

>> morrison: If they were required

--

>> if they wanted to provide park

--

>> morrison: Obviously we don't want to disable the building or anything

-- dismantle the building, but that wo

--

>> mayor leffingwell: Council member spelman?

>> Do we need to leave in the words "motor vehicle parking"? If we went back to the original language, to say off-street parking, maybe it would be helpful to keep in those words, motor vehicle, to distinguish between bicycle parking, which is going to become more and more

ubiquitous as time goes on.

>> That's new language we inserted in here to distinguish it from

--

>> spelman: I'm suggesting we keep that piece of the new language.

>> Mayor leffingwell: Well, I think that would be automatic if council member riley's motion as understood it would be to retain part b 1 and 2 with the exception of 12,000 square feet instead of 6,000 square feet. Motor vehicle is not in the original language.

>> Spelman: We can't because if we say except as provided in subsection 2 of the sub

--

>> mayor leffingwell: Led that be out too. So 1 would read off-street parking is not required, a, b.

>> Spelman: I'm suggesting we say off-street motor vehicle parking is not required, a, b.  
[14:47:56]

>> Mayor leffingwell: You want to add motor vehicle, that would

--

>> spelman: I would like to add motor vehicle back in and continue, as council member riley suggested, strategic the words except as provided in subdivision 2 of the subsection.

>> Mayor leffingwell: I guess we're trying to keep some methodology to this. Council member riley, would you like to withdraw your amendment and propose a new amendment in accordance with

-- including the words "motor vehicle" in part 2b?

>> Spelman: I think this fits in their friendly amendment category. This is a very small thing I'm suggesting.

>> Riley: Just to clarify we're talking about motor vehicle parking. Sure, that would be friendly. Okay.

>> Mayor leffingwell: I will accept that also, as a second. All in favor of that proposed amendment say aye.

>> Aye.

>> Mayor leffingwell: Aye. Opposed say no. Passes on a vote of 7-0.

>> Riley: Mayor?

>> Mayor leffingwell: Okay. Go ahead.

>> Riley: If I may continue since we were just talking about the next paragraph, i would have a suggestion about that, and this relates to the provision of parking facilities for people with disabilities. We have had some discussion about that lately and we recently saw the installation of a couple spaces down there off of south congress, on street, and in some case that can actually -- that can work out very well for people with disabilities, because the people will on street can actually be more convenient than parking in a garage that's somewhere nearby. And so with that in mind i would like to provide some direction to staff for additional language to add to that next paragraph, which is paragraph 256591 b2. I would suggest we eliminate parking requirements for any building that's within a thousand feet of the required number of ada spaces on street. If the building is over 12,000 square feet and not within a thousand feet of on street ada spaces, the applicant would either secure the necessary ada spaces on-site, secure the ada spaces off-site or could work with the city to convert on street space to meet the ada requirements. And this is just

an effort to ensure that we get an appropriate number of ada spaces in the most efficient and effective way possible.

[14:50:22]

>> Mayor leffingwell: The amendment by council member riley basically to restore paragraph 2 with changes, and I understand

-- I'm going to second and i understand that would not apply if there were available spaces within a thousand feet.

>> Riley: That's right.

>> Mayor leffingwell: Okay.

>> Cole: Mayor? I believe

--

>> mayor leffingwell: Wait

--

>> cole: Oh, I'm sorry. I just

-- for a point of order, I believe I was the second of council member riley's original motion, and I think we can

--

>> mayor leffingwell: Well, now we're talking about amendments.

>> Cole: And now we're talking about amendments, yes, and you've been seconding.

>> Mayor leffingwell: Yes.

>> Cole: And so I just wanted to make sure we were clear about all that.

>> Mayor leffingwell: Yes, we are. Council member spelman.

>> Spelman: The

-- there are three sentences in subsection 2, and my reading is that that last sentence, if no off-street parking is provided, dot dot dot, it was your intention as i understood it a few minutes ago, that that might not benecessary. Is that still necessary?

>> Riley: I'm sorry, which?

>> We've got parking spots for persons with disability. That state, if off-street parking is minimum, ibc, that stays. Third is if no off-street parking is provided, that whole sentence can go. Is that correct?

>> Riley: I believe that's

-- actually that

-- that would stay.

>> Mayor leffingwell: Yeah.

>> Spelman: I misunderstood then.

>> Mayor leffingwell: I think you said if no off-street parking is required and then you went on to describe an alternate means of compliance.

>> Spelman: Okay.

>> Mayor leffingwell: He changed that sentence, in other words.

>> Spelman: So that was the sentence that was changing that you were talking about and it was not tacking another sentence on to the end.

>> Riley: That's right.

>> Spelman: Okay.

>> Cole: Mayor?  
>> Mayor leffingwell: Council member tovo.  
[14:52:23]

>> Tovo: I guess I'm wondering, if we're only considering this on first reading I'm wondering if there's a way to get some sort of points of direction and allow the staff to go forward and wordsmith these and bring them back. I got a little  
-- a little stressed when we start writing things on the dais.

>> Sure.

>> Tovo: For those of us that are readers it's almost impossible to follow this.

>> Mayor leffingwell: That's the purpose of pass thanksgiving on first reading so we can have  
-- passing this on first reading so we can have another look at it

--

>> tovo: Right, but I'm just thinking, council member riley knows what his other amendments are. I'm wondering if there's a way to pull them out and provide them as direction that we could affirm or vote on and then allow the staff to go forward and draft them.

>> Riley: The concern is, we're generally eliminating [inaudible] requirements in the cbd and dmu, we may hamstring the reuse of some older buildings. To the extent we're requiring  
-- we're imposing very significant requirements to provide ada spaces, and so this is simply an effort to ease that burden a little bit by enabling staff to work with applicants to secure the ada parking in a more efficient way, and often that may mean making use of spaces that are on the street. Sometimes there may already be ada  
-- adequate ada spaces within a thousand feet on the street. Sometimes there may be opportunities to converge existing on street spaces to ada parking, and the idea was simply to encourage that sort of effort to satisfy the ada requirements as opposed to imposing requirements that could actually hinder the reuse of some of these older buildings.

>> Mayor leffingwell: I think we understand that. Council member morrison?

>> Morrison: Just to be clear, is what you're talking about actually going to be changing the number of ada spaces or just where they might be found, given that you would still calculate the same number required but then they might be on  
-- say, on the street or something like that?

[14:54:42]

>> Riley: Actually, no  
-- we weren't actually changing the number of

--

>> morrison: Okay. Great. That's what I understood. So if we were rewriting code, we would not be deleting that last sentence? But we're not doing that.

>> Riley: Right. Right.

>> Mayor leffingwell: Council member tovo.

>> Tovo: Just a suggestion. If it's easier to provide with the specifics, that's fine. Whatever.

>> Riley: Okay. Okay.

>> Mayor leffingwell: I think we're well down the road at this point. And I think we're ready to vote on this amendment. All in favor say aye.

>> Aye.

>> Mayor leffingwell: Opposed say no. That passes on a vote of 7-0. So now we have two amendments that have been adopted as part of the main motion.

>> Riley: Okay, one other that I hope would be fairly straightforward and simple, and that is based on the request of the downtown austin alliance to allow the use of alleys for loading and unloading by right. We have seen that in a number of cases recently, and I've actually been glad to see some interest in use of the alleys. I think that generally to the extent that we can preserve and make use of our alleys, our downtown grid will be

-- will be the better for it over time. That's what they were originally put that for, and so I'd like to do what we can to make that easier. So I would suggest we simply allow the use of the alley for loading and unloading by right.

>> Mayor leffingwell: Okay. I'll second that motion. Council member tovo?

>> Tovo: I have a question about that one. I do want to think about that one a little bit more between now and when it comes back because there's also an effort to activate some of the alleys in ways that wouldn't just be supporting commercial businesses and I wonder if you've given any thought

-- I don't want to put you on the spot, but I would just

-- you know, I don't know whether that supports that goal, if they're being used frequently for loading and unloading, then they're not available for uses, you know, walkways, in the event there might be some little businesses that locate on that side. At times we've envisioned other uses for the alleys other than car traffic and loading and unloading. I don't want to preclude those opportunities. If they have it by right then it's hard to go back on that.

[14:57:03]

>> Riley: Sure. I have heard those ideas and I'm interested in that. I guess my concern is that we've actually seen

-- in the past we haven't been seeing that happening, although there has been some discussion about it. What we've been seeing happening is people don't take the alleys very seriously and we fairly casually discard those alleys. The last one

-- well, we just lost the alley on

-- just east of congress between 2nd and 3rd. We

-- back in 2008 or 2009 we vacated the alley, just east of congress between 5th and 6th. There have been a number of cases where we just

-- when you watch the discussions on those there was no

-- people just generally didn't attach much importance to the alleys, and that to me is the real risk that we have, is that they don't get used and then they

-- they wind up just getting vacated and our downtown grid suffers. So I think

-- I thought that to the extent we can allow some use of them but that that would just give them more of a reason to be there and they'd be taken more seriously and

-- and they'd be available

-- and they would be available for uses like you're contemplating, at times, even if not all the time. Yes, they would be required as many downtown alleys are now. Often there is some use of

the downtown alleys, and that would continue to be the case. So I don't see it dramatically changing the availability of the alleys for the sorts of uses you're contemplating.

>> Mayor leffingwell: Council member tovo?

>> Tovo: I wonder if

-- i know the downtown commission is working on an alley activation project right now, or at least the members of the downtown commission are. I wonder, is there time to get

-- when do they meet again? Is there an opportunity to get their input on this in any kind of formal way?

>> I'm not sure what their regular meeting schedule is. We could check on that, and if

-- you know, if there's time we could try to get on their next agenda.

[14:59:14]

>> Tovo: Andnot I could certainly reach out to my commissioner or other commissioners and get a sense how that fits into their priority. Thanks.

>> Mayor leffingwell: Yeah, be I think, certainly if there's an opportunity to reach out to them, do that, but I can there's a little bit of urgency involved and I would like to see this come back for second and third readings as soon as next week. [One moment, please, for change in captioners.] (cofa9-27-12.Ecl) rusthoven,.

>> That passes on a vet of 7-0.

>> And we talked previously about remaining reuse of the buildings to make life easier to bring life downtown and life into the new buildings and I want to emphasize is not to make downtown parking more difficult, we aren't trying to kill off parking downtown and in fact, part of the reason for this resolution that was cited in the original resolution when we initiated this code number process is we have a wealth of parking downtown which is not currently not utilized. We have a huge number of parking garages that sit empty and many of them may<sup>33</sup> not be made available to the public. Part of the reason for that is there are currently a number of requirements that make it difficult for

-- for those properties to be

-- for those parking areas to be made available to the public, and one

-- one is one I asked george about repeatedly, one is accessory parking, which is if you have a building in which you don't use

-- which the parking isn't used all the time and you want to open it up to the public so they will be able to have one more place where they can park at night, that is currently a conditional use, so there is a whole process that you have to go through in order to be able do that and so my

-- my motion would be

-- my memo would be to make accessory parking available to the public a permitted use and by parking accessory available to the public, I am contemplating parking that is associated with a principal use on

-- on some other

-- on some

-- on any downtown site, that you would be able to make that available to the public. Tonight, for instance, we had the project at fourth and guadalupe, the hotel za-za and gables and we had concerns raised from a neighboring residential project that there was too much parking being placed there. One upside to that, even if the residents and the guests staying at that place don't

need those parking spaces because that side is so well transit, that side can be available to the public and the neighborhood to the extent they can be used by the general public to understand that the warehouse is a fun destination and they want to be able to come park there. We want to make it as easy as possible for that side to be able to make its

-- open its garage doors to the public so the public can park there. And so

-- so

-- then what would be to make accessory parking available to the public a permitted use downtown rather than a conditional use.

[15:03:14]

>> Mayor leffingwell: Is that in this ordinance, where it's not?

>> Riley: It is not currently in the ordinance and that's why

--

>> mayor leffingwell: In a prior section or

--

>> Riley: I think it would require a new

-- I am not sure. I will let george to figure out the wording on that.

>> It would

-- the

-- part one refers to chapter 25-2-491 which is the table of conditional and permitted uses, so it

-- we could

-- we could amend that table to make commercial off street parking a permitted use instead of conditional use.

>> Riley: I understand there might be additional work required to ensure we aren't talking about the construction of new single use garages that would be able to the

-- that would be available to the public. This would apply to parking that is

-- an accessory use rather than a principal use so if you just had one freestanding garage, we aren't trying to promote the construction of big new freestanding garages downtown. The idea is that existing garages serving other uses would be able to make

-- would be able to open their doors to the public without a conditional use permit.

-- would be able to open their doors to the public without a conditional use permit.

>> That would take crafting the lance.

>> Riley: Yes. And the end we discussed those previously and what that's why we don't have language to offer you tonight because it would require some additional word smithing.

>> Mayor leffingwell: That's your proposed amendment?

>> Riley: Yes.

>> Mayor leffingwell: To this ordinance?

>> Riley: Yes.

>> Mayor leffingwell: I am going to second but I want to clarify what you mean. This is an option that would be available to the property owner.

>> Riley: Absolutely.

>> Mayor leffingwell: So any further discussion on it? Council member martinez.

>> Martinez: Real briefly. I think the intention of council member riley's amendment, I don't know if i can say it any better than him, but if we have current projects that are coming through that already have gone through the process and we know they are going to build these massive

parking structures, basically it would allow the neighboring businesses to use that parking structure without them having to come back to council every time for a conditional use permit. Further encouraging what we are trying to do, that is, rejuvenate the activity in some of these existing structures that adopt have that necessary parking today, even though we are not going to require it moving forward, they can enter into an agreement with the property owner no enter into an agreement with their clients and customers.

[15:05:52]

>> Mayor leffingwell: I would second now except there are more hooks to jump through to do. Okay. All in favor of that amendment, say aye. Aye. Opposed say no. That passes on 7-0. Do you have any more?

>> Riley: The last one is similar to that. [Laughter] currently, off site accessory parking there is site plan parking and i recommend that we remember move the off site accessory parking for cpu and dmu.

>> Mayor leffingwell: Where is that? George, do you want to look at that? Part one?

>> It is not before the text but it is used in a different sling of the code. That would be in chapter 25-6-501, I believe.

>> Mayor leffingwell: Off site accessory parking use is permitted in the cbd and your

--

>> Riley: There is a site plan requirement. You have file a site plan and the idea is to make it easier, just by deleting site plan requirement.

>> Mayor leffingwell: Makes it easier, I will second that, also. Any further discussion?

>> Spelman: Yeah.

>> Mayor leffingwell: Council member spelman.

>> Spelman: Don't we get other benefits of requiring a site plan? I am thinking of drainage specifically? I imagine there might be some others. We can ensure that

-- that the site will drain properly because we have a site plan. I am sure there is a whole bunch of other stuff that 3 hours ago I would have been able to pull off the top of my head but I can't at this time of night.

>> Mayor leffingwell: I think that goes without saying that the site plan would have to have adequate drainage.

>> Spelman: The whole point behind the site plan is you are ensuring some things

-- some conditions are going to be met.

>> Riley: I am sure there would be requirements associated with filing the site plan and the idea is that we want

-- we want to be promoting off site accessory parking and we are trying to clear away some of those requirements and make it easier.

[15:07:54]

>> I would suggest if you want to say that off site parking, using an existing parking lot, would not require a site plan approval. Right now you do have to have a site plan showing who is using the parking, you know, where it's allocated, what uses it's serving and so on. Any new

construction, however, would require a full site plan to analyze the drainage and all of the other issues that

-- to

--

>> Spelman: I think I understood council member riley's amendment. I thought he was talking about new structures as well.

>> Riley: I was contemplating a situation where somebody is making use of existing parking outside.

>> Spelman: All right. With that understanding, thank you.

>> Mayor leffingwell: All those in favor, say "aye.." Opposed say no. That passes 7-0. Is that it? Okay. So.

>> [Indiscernible]

>> council member morrison.

>> Morrison: This is a question all the way back on your presentation, george, and that was

--

>> mayor leffingwell: There is one more amendment, by the way proposed.

>> Morrison: This is an informative thing and i don't think it will make a difference. When you are looking at the potential consequents and you said

-- consequences and you said less disabled parking and you were talking about specifics about changing disabled parking requirements. Did you mean anything more than that?

>> No, simply that the

-- the parking requirement for the disabled is presently based upon the number of spaces that are provided, and so if

-- if you eliminate the requirement to provide any spaces at all, then there will be fewer accessible spaces for the disabled.

>> Morrison: Although we do have this one section, if my brain is still working, b2, that still does require in certain circumstances disabled parking?

>> For businesses over 12,000 square feet.

>> Morrison: Right. In those cases you will?

>> Yes.

>> Morrison: The only

-- the question I have is if we have gotten any feedback from folks from the world

-- disabled folks that might have an interest in this or our mayors committee, people with disabilities, or anything like that? The other thing that occurs to me that came out in a discussion that I had was are there any studies or projections on trends with our growing aging population, in terms of growing need for disabled parking? Have you heard? I want to make sure we don't paint ourselves into a corner and 20 years from now look up and say, well, it is too bad.

Downtown is notably accessible by people who are disabled and, especially if there is

-- if there are more people that are aging and expect to have

-- we may expect to have a need for more disabled parking.

[15:10:54]

>> With regard to your first question, we did not do any outreach because the original recommendation was to maintain the status quo and not to increase or decrease parking for the

disabled. With regard to your second question, we do not have any information like that. Speaking as someone who is rapidly approaching senior citizen status.

>> Morrison: You have a lot of people here who might be.

>> Mayor leffingwell: You have to be disabled, though.

>> Morrison: I just think that

--

>> mayor leffingwell: Can i just comment that it seems to me that there is always an opportunity to address that simply by, if it changes in the future, simply by changing appendix a.

>> Morrison: Uh-huh.

>> Mayor leffingwell: So i think that would kind of take care of itself based on need.

>> Morrison: Okay. And I know, mayor, we have a committee on the aging or something, and it might be interesting to reach out and see if that's anything that's entered any of their conversations.

>> Mayor leffingwell: We do have a mayor's task force on aging and I can make sure that's put before them.

>> Morrison: Thank you.

>> Mayor leffingwell: Okay. Anybody else have any? I have one I want to propose and it is very simple. Just to simply strike subsections b3 and subsection 3, which would have the effect of eliminating a cap on parking. That was recommended by the daa, also. Is there a second to that? Second by council member spelman. Council member riley.

>> Riley: And I will

-- i certainly respect the idea behind

-- behind the amendment. I am not going to be able to support it. While I agree with it in spirit, I think our code has been working very well in as far as ensuring that to the extent there is excess parking provided, that it is structured so we don't get overabundance of surface parking downtown and my other concern is that there may be situations in which someone just goes

-- wants to go hog wild and build like crazy amounts of parking downtown and we would have no

-- no wa to

-- we would have no control over that. We would have no tool

-- no way of

-- no way whatsoever of managing that. That hasn't been an issue for obvious reasons, because parking is expensive to build. This

-- this

-- what we heard tonight is it hasn't

-- the cap that currently exists in code has not been a problem because it has routinely been waved by

-- waived by staff administratively whenever in a structure and I think that works very well. If this

-- if this amendment does pass, I would just suggest that between now and second reading perhaps we could work with staff to figure out some criteria that

-- that could guide staff's decision on this and maybe we could come up with something that would be something

-- some

-- not

-- something less than a complete waiver of the cap that would say there will be no cap if

-- if you do a certain amount of parking underground or  
-- or parking sati requirements, then it ensures we don't get something  
-- we don't have unanticipated consequences to the amendment.

[15:14:25]

>> Mayor leffingwell: All right. Assuming that this passes, i would certainly be willing to direct staff to explore language to that effect, but I want to make sure, convey the message that really the marketplace is going to control how many parking places are built. I

-- if somebody decided to go hog wild and build 10 times the amount of parking spaces that are acquired by appendix a, that would be a very foolish move and i doubt if that's a realistic consideration. But I

-- I just

-- I w like to convey that message very strongly, that the maximum amount of parking is going to be market driven so we can ensure

-- give assurance to developers, lenders, et cetera, that this is not going to be an obstacle to them. And it is recommended by the daa and I think it makes commonsense. So council member tovo.

>> Tovo: Have you heard from any

-- any developers that cap has posed a problem for them with lenders?

>> Council member, we've

-- we have not heard any

-- anything to that effect. We have been compiling information of construction that's occurred in the downtown area over the last several years to try to figure out, you know, how much parking people have provided. Generally ae found that almost everyone has exceeded the 20% minimum. There have been a few that have exceeded the 60% maximum. We have

-- we haven't completed that research yet so we don't have the complete information but we have not heard it being a problem.

>> Tovo: I think I heard you say there just have been a few that have exceeded the 60% and they got an administrative waiver as council member riley suggested existed. So

-- and I think what i heard you say before about lending is that in some cases people will build parking anyway because their lenders might demand it. But just to be clear, there is no

-- it doesn't sound like there is any issue with having a cap as far as the lenders go.

[15:16:47]

>> Not to my knowledge.

>> Tovo: Thanks.

>> Mayor leffingwell: And

-- and, you know, i don't want to contradict here, but what I am hearing is that in almost every instance, they have exceeded the parking requirement in

-- in appendix a even. Especially if it is residential building apartments and condominiums. Yes, go ahead.

>> Tovo: I wonder if between now and between you come back, you can let us know how many projects that need to exceed that 60% cap?

>> We have an intern that has been working on that and we will try to get that to you.  
>> Tovo: Thank you.  
>> >>Professor: Okay. All in favor of that proposed amendment say aye. Aye. Opposed say no.  
>> No.  
>> Mayor leffingwell: So that is council member riley, council member martinez

--

>> I voted aye.  
>> Mayor leffingwell: You voted aye. Do it again. All those in favor, say "aye." Council member riley, council member tovo, council member morrison and council member cole, so that proposed amendment fails. So I guess we are to the main motion. So the main motion as amended several times, all in favor of that motion, say aye.  
>> Aye. Opposed say no. I am going to say no, because my amendment didn't pass. [Laughter]  
>> Cole: Mayor. Come on. [Laughter]  
>> mayor leffingwell: So that passes on  
-- public he closed. Passes on first reading only. We will see it next week. And I believe that's  
-- that concludes our agenda, so without objection, we stand adjourned at 9:20 p.M.