

## City Council Meeting Transcript 6/27/2013

*Note: Since these log files are derived from the Closed Captions created during the Channel 6 live cablecasts, there are occasional spelling and grammatical errors. These Closed Caption logs are not official records of Council Meetings and cannot be relied on for official purposes. For official records, please contact the Office of the City Clerk at 512-974-2210.*

Mayor Leffingwell: Good morning.  
[03:45:07]

[Gavel sounds]

Mayor Leffingwell: Good morning, I'm austin mayor lee leffingwell, we'll begin today with the invocation from decon joe mendez from saint albert the grate catholic church, please rise.

Let us pray. Eternal god, we ask your blessing this day as the council reaches its last session before summer break. And our nation begins to celebrate its independence day. Lord, we ask your blessings on the city leaders. We ask in your name that these servants who are in positions of authority use their authority wisely. We ask that they find the strength to do their very best this day. We ask they realize their need for you and for your direction. We ask that they hear your voice as they make their decisions. We ask that they have the ability to work together in harmony, even when there is honest disagreement. May they have a passion for people -- for truth and for righteousness, we pray for the agenda set before them today. May their decisions today be pleasing to you and benefit those who live and work in our beloved city of austin. Lord, we ask for blessings on our servicemen and women. We ask protection for all of our men and women in uniform, both here and around the world. We are grateful for their service and for dedication to keeping our nation safe. We pray that you keep them safe. We thank you for your blessings of life and liberty. May our dedication to you cause us to reach out to all other nations, with a strong desire for peace and harmony. Lord, we thank you for your many and abundant blessings. Thank you for life itself and for the freedom to embrace you. We ask this in your holy name. Amen.  
[03:47:16]

Amen.  
Amen.

Mayor Leffingwell: Thank you, pastor. Deacon, excuse me. Please be seated. A quorum is present, so I'll call to order this meeting of the austin city council ON THURSDAY, JUNE 27th, 2013. At 10:08 a.M. We're meeting in the council chambers, austin city hall, 301 west second street, austin, texas. We will begin with the changes and corrections to today's agenda. Item no.29. Strike the numbers 2013 to 2014 and insert the numbers 2012 to 2013. On item 48 add the phrase unanimously approved by the parks and recreation board on a vote of 6-0 with the addition of an 18-month review period. Item no.55 is postponed UNTIL AUGUST 8th, 2013. Item 59 is withdrawn. Item 75 add as a second co-sponsor, mayor pro tem sheryl cole at its time certain, item 105 a new time certain of 7:00 p.M. Will be requested by councilmembers morrison and tovo. Our 10:30 briefing will be on the hispanic quality of life. The briefing on local and healthy food policy and recommenda withdrawn. At 12 noon we will take up our citizens communications. At 2:00 our zoning matters. At 4:00 p.M. Our public hearings. At 5:30 live music and proclamations, the musician is shivery shakes. The consent agenda for today is items 1 through 85. Item 63 will remain on concept. Those are appointments to our boards and commissions and waivers. But I will read that into the record. To the electric utility commission, clay butler is councilmember riley's nominee. Varoon ray is councilmember spelman's nominee. To the resource management commission, carol  
[03:49:57]

[indiscernible] is councilmember tovo's nominee. To the rmma plan implementation advisory commissioner, corky hillyard is councilmember riley's nominee. To intergovernmental bodies to the central health board of managers, william kirkendahl is the council's nominee. Waivers

-- approval of waiver of the residency requirement in 2121 of the city code for the service of kyle holder on the early childhood council. Those are nominees and waivers. Items pulled off the consent agenda. We have a number. First I will speak to item no.27 pulled by myself on the request of the representative of the jw marriott for a postponement until a time that it can be heard by a full council. Noting that councilmember spelman will be absent after approximately 2:00 p.M. Today on city business. 2:00 to 3:00. It's also been pulled for the time certain, but if there's no objection we will list that for a postponement. Hearing none, item 27 will be postponed until august 8th, 2013. Mayor pro tem cole has pulled items 28 and 72. Councilmember spelman has pulled item 29. And councilmember tovo has pulled 18

-- items 18 an 19. We have a number of items pulled for speakers who have signed up. Item no.48, item 52, item 68, item 69, item 44 and item 45. Councilmember martinez, adding to this list, councilmember martinez is requesting postponement of ITEM 24 UNTIL AUGUST 8th. If there's no objection to that

-- hearing none, and i am pulling item no.75. So that's the consent agenda. Last time I looked, we had no citizens signed up to speak on the general citizens communication. So I'll entertain a motion to approve the consent agenda. Mayor pro tem cole so moves, seconded by councilmember martinez.

[03:53:18]

Morrison: Mayor?

Mayor Leffingwell: Councilmember morrison?

Morrison: I would like to be shown as voting no on number 83.

Mayor Leffingwell: Show councilmember morrison no voting on 83.

Tovo: Ditto.

Mayor Leffingwell: Councilmember tovo also voting no on item 83. So all in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0. Councilmember tovo had pulled numbers 18 and 19, which will be heard together. Before we start, could I ask everyone to please hold it down, please hold it down until you get outside of the chambers so we can continue with the meeting, we appreciate it. Thanks. We do have three speakers, do you want to ask your questions first? First speaker is bill bunch. Bill bunch. You have three minutes.

Thank you mayor leffingwell, members of the council, I'm bill bunch, executive director with the save our springs alliance here speaking against this proposed service extension request in our drinking water protection zone, barton springs watershed in oak hill. 37-acre development. We've had a long standing policy of not extending wastewater utilities to facilitate intensive urban development in the barton springs watershed. And we need to continue that policy. This would serve very high density, multi-family project that is contrary to our efforts to protect barton springs. We have abundant evidence to show that we're getting more pollution than we can handle at the springs from this kind of development. What I have passed out for you, as you know, this has been on your agenda two or three times. But this is an email from chuck lesniak the city environmental officer explaining that you were going to have a formal agreement of staff or council, I'm not sure which, who would actually execute that. But formal enforceable commitments from the developer to comply with s.O.S. Impervious cover limits on the bulk of the tract that doesn't really have a grandfathering claim and some other water quality controls on some smaller single family lots that are adjacent. We still don't have that. So it was punted twice because we didn't have that. Now they're bringing it to you and we still don't have that. It's my understanding there's some legal argument that staff is now making that you can't tie these things together. And the simple solution for that, assuming that it's true, that's a point of law that I haven't had the specific reference provided or researched, but you get the agreement first. And then if it

-- if it matches what

-- what we've been sort of sketched out and given an outline of and it's a good thing, then you can

-- then you can take this action that's proposed. And you can get some help from your environmental board on this to get their input and get their take on it. With the agreement. And they had

-- they did not have this when it went through the water and wastewater commission just on the service extension request. So please vote no for now, at least postpone it, let's have some more transparency and make sure that we're going to protect the aquifer if you do this. But the proper default is to say no as we have been. Thank you very much for your consideration.  
[03:57:25]

Mayor?

Tovo: Councilmember tovo?

Tovo: You can go first.

Mayor Leffingwell: Councilmember riley.

Riley: I want to make sure what you would be looking for in the agreement. Are you looking for terms of a requirement that would comply with s.O.S. Is that the main thing.

All of s.O.S., The impervious cover limits

--

Riley: That's why we need to make sure it gets nailed down.

Right. Thank you councilmember.

Tovo: Along the same lines, I have an email here from mr. Hartman that lists, I'm going to ask him to speak to this if he signed up today, it talks about the proposed development would accomplish the following, s.O.S. Water quality controls for all lots including 2 through 8, lots 2 through 8 required to convey storm water to s.O.S. Pond. The strict impervious cover on lot 8 to 25%, lot 1 in the e.T.J. And lot 8 would comply with the tree ordinance, would comply with the landscape ordinance provide an ipm plan and would avoid an onsite well

-- this would achieve avoid an on site septic system. In your estimation are the those the points that would mitigate your concerns about the [indiscernible]

|

-- I don't have the map and know which lots are which, the numbers. So

-- I would have to look at that a little more closely to understand it. But the impervious cover limits on the larger lots, the main

-- the big lot is the most important part of this.

Tovo: I actually don't see that in this list of points. I don't see that that's one of the

-- one of the points that the developer is referencing, lot 8 is

-- is one of the smaller lots. Immediately adjacent to the larger track, but here comes mr. Lesniak, were you coming up to address this issue?

I wasn't coming to do that, but I can, chuck lesniak, city environmental officer. Lot 1 is the larger lot, lot 8 is the smaller lot that fronts on highway 71. Lot 8 is the lot that has a restrictive covenant that provides access for the property to williamson creek ordinance from 1984, with 65% impervious cover and sedimentation for water quality. The project that the applicant has a site plan in for currently is proposing to comply with s.O.S.

Impervious cover limits on both of those lots. That site plan is compliant with s.O.S. For both impervious cover and water quality treatment.

[04:00:11]

Tovo: Did you hear you say that's true about lot 1 of the larger track.

Lot 1 is subject to s.O.S.

Tovo: Again, mr. Hartman if he comes up, i will ask him to address this, but that's why he hasn't listed or articulated this in the lesser bullet points because it would be [indiscernible] that's not impervious cover limits that's not in question. Thank you.

Mayor Leffingwell: Just for clarification, mr. Lesniak, this is only a request for service

-- service extension request.

That's correct.

Mayor Leffingwell: The site plan, if it did not comply with s.O.S. Would have to at that time have an s.O.S. Variance, would it not?

That's correct, for lot 1. Lot 8 is not subject to s.O.S. But it is -- the

-- the smaller of the two lots.

Mayor Leffingwell: Grandfathered. To me it is a separate issue in that the requirement to comply with s.O.S. Is separate from whether or not water and sewer should be supplied to this tract.

That's correct.

Mayor Leffingwell: Thank you.

Cole: I have a follow-up question. Chuck, would you explain to us how

-- it's my understanding that the service extension request will expire after 180 days; is that correct.

Brian: Maybe I can have the water utility explain that to you better than I can.

Cole: Okay.

Good morning Dave Waters, Austin Water Utility. You are correct Councilmember

-- Mayor Pro Tem. After approval of the [indiscernible] if there is no action taken the service will expire after 180 days.

So our concern is automatically going to be dissipated after 180 days.

Yes, ma'am. If it is approved today they have 180 days to complete their development process, site plan approval, et cetera.

[04:02:13]

Cole: Chuck, let me ask you a follow-up question. I understand there's always been a concern between the balance of us being able to get water quality and not having to put in a septic tank or a wastewater plant. What is the issue there, the

--

on this parcel because it's a multi-family development, it's a fairly large number of units. This is not what you would typically do with a traditional septic system. It would likely be a land application system where you would do partial treatment of the wastewater and then apply it to the service of the land through an irrigation system. That would require a land application permit from TCEQ. Which you all are familiar with those. Those do occasionally get applied for. The city of Austin typically opposes those and so that's their alternative. If we didn't provide wastewater services, if they chose to move forward, they would need to go to TCEQ for a land application permit.

Cole: So there's definitely a pro environmental side to approving these items?

In terms of the city, we don't support land application in this area. Particularly because it's relatively close in. But anywhere in the recharge and contributing zone we have always opposed land application permits.

Cole: So it's my understanding that staff has looked at this and it's on the agenda because you have become comfortable with the water quality standard?

I think that the project they have proposed mitigates the water quality impact of the not only lot 8, which they -- which they will own and has the restrictive covenant, but the other five, six lots, that they are agreeing to take that also have the restrictive covenant allowing them to do sedimentation/filtration, they are agreeing to take storm water from those lots when they are developed by the owner and treat it to s.O.S. Standards on their property. That's the site plan that they have proposed.

[04:04:29]

Cole: So we get better coverage?

Yes. And so all of the lots would get s.O.S. Water quality treatment and with the project they have proposed. Now, that's not a condition of the wastewater service. But that's the project that they have proposed and currently have a site plan and their site plan review is nearly complete.

Mayor Leffingwell: Councilmember Spelman?

Spelman: Chuck, you used reference to the restrictive covenant. Has that restrictive covenant actually been written yet or are we still working on it?

This is a restrictive covenant from the oak hill zoning cases from a couple of decades ago. So it's a restrictive covenant that's tied to the zoning of those properties and

-- and allows them to develop under the williamson creek ordinance from 1984.

Spelman: So that's done. The development agreement that mr. Bunch was referring to, what's the status of that?

We're not going to do a development agreement. What we were trying to do was to do a development agreement that would require that they have the aspects, environmental protection aspects that we've been discussing for their development. We've been advised by the law department that that's not allowed by state law. They are doing a unified development agreement for the storm water treatment that once the site plan is approved a site plan for those other lots that they don't own would have to send their storm water to this

-- to this development. But there's not any

-- it doesn't carry the force of law or a contract, that is voluntary on their part.

Spelman: I nod that it's voluntary, I understand that it's voluntary, but i also understand that it would be, I suspect most of us would not want to extend service if we thought they were not going to use service in a way that was consistent with the city's objectives. Is there some means if we say yes on the service extension request and then they change the site plan so it's not consistent with what we expected, is there something we can do about that?

[04:06:33]

I think that's a question for the city attorney.

Spelman: I guess we need to ask the city attorney then, thanks, chuck.

Mayor Leffingwell: City attorney?

Mayor, I believe the question was if they change

-- if they change factors on the site plan after it's approved

--

Spelman: We have a site plan that's been submitted which is consistent with the city's water quality objectives, therefore

-- therefore if the site plan is the site plan to actually work with, we will not need a development agreement. On the other hand, if they change the site plan, i understand they can do that. So it is no longer consistent with the city's water quality objectives. Then sending a service extension request which would allow them to build that thing out would not be appropriate. Is there a way of either revoking the

-- revoking the service extension request

-- is there a way of revoking the service extension request?

Not based on a site plan change that complies with the law, no. If they change the site plan based on the objectives they have stated now on the project development, if they change that, after approval of the ser, we're not conditioning the ser on the

-- on the conditions that they have stated right now on the site plan. The site plan

-- [multiple voices]

Spelman: Going to be in conflict with the state law, we can't do that.

Correct.

Spelman: Okay. So theoretically they could do that.

Yes, theoretically they could change the site plan as long as it complies with the city code and state law. It's an administrative change that could be approved at the staff level. Then if it he

-- if it is inconsistent with what you are seeing now on the site plan or staff has now in its file, then that is

-- there's nothing illegal or there's nothing that we can do to stop that development.

[04:08:34]

Spelman: Do we have to approve a site plan?

Yes.

Spelman: If it's consistent with state law, with city code we have to approve it.

Yes. Yes.

Spelman: Thank you.

Mayor Leffingwell: If I could follow up just a second on that. It's my understanding lots 2 through 6? Are owned by someone else. It's not part of this?

I think that's correct. I would have to ask staff.

Mayor Leffingwell: [Indiscernible] 2 through 7.

Yes, mayor, that's correct.

Mayor Leffingwell: And so

-- so what is being discussed here is that this applicant is willing to provide water

-- s.O.S. Water quality for those lots, provides us an opportunity for these lots which I understand are grandfathered. They do not have to provide s.O.S. Water quality, but now with this agreement, they at least have the opportunity to provide s.O.S. Water quality where otherwise there would not be even be that opportunity; is that correct? So at least we have a chance to have s.O.S. Water quality on that entire tract including lots 2 through 6.

That's correct.

Mayor Leffingwell: Otherwise we wouldn't even have a chance.

Unless the owner of those other lots voluntarily chose to do that.

Mayor Leffingwell: Well, if he did that, though, he would have to reduce his entire impervious cover in order to do it and I think we can all agree that's very unlikely.

These are relatively small lots there's probably not the land area on those lots. Lot 1 is large enough to be able to do that.

Mayor Leffingwell: Seems to me that taken overall, including the other lots, this is better s.O.S. Water quality than we can get by any other means.

Yes.

Mayor Leffingwell: Thank you. Councilmember tovo, we do have two more speakers, too.

Tovo: I think my question is probably a legal one, I just want to get back to this idea about not having an agreement and the concerns about the legal concerns about executing one. If the applicant is willing to agree to those conditions in a restrictive covenant, is there any problem with those? We have received an email from him, so he's clearly I would assume clearly willing to commit to those points. And make them a matter of record.

[04:11:04]

If the developer wants to make the project and the components of the project a matter of record, there's no legal issue. State law does prohibit us from entering into a contract or an agreement that places an unrelated, not related to the service extension matter a condition on the development. So in the

-- in

-- it's in the team because it's in the e.T.J. So if they want to voluntarily state that they want to comply with things that are above and beyond what their legal obligations are, these perfectly fine, but the

-- you the city may not make a condition on this service extension, that's what state law states.

But if they had wanted to enter into a restrictive covenant, with the city, would that have been something that the city could have done.

No. The city is a party to that. That is a condition that the city is a party to. If we sign it, we are involved in it anyway, it becomes a contract with the city.

But they could choose for example to do a restrictive covenant with save our springs as a partner or as a party to it.

As long as there's no

-- no city involvement in that condition.

Tovo: So if the developer states as a matter of records the points to which they commit are included in the site plan or are as described in their plan, and then they make choices to change them, do we have any legal remedy? It may be the same question that was asked earlier.

I think it is the same question. Those  
-- those are  
-- if they are within the city code and state law, then there's  
-- there's no  
-- this action today cannot be  
-- is not  
-- those are not conditions that can be placed on this action today.  
So stating it as a matter of record if the developer states it as a matter of record.  
[04:13:07]

There's no contract at this point.  
Tovo: And there's no requirement on  
-- on his part to hold to those points.  
There's no legal refresh my memory.  
Tovo: All right. Thank you.  
Thank you.  
Mayor Leffingwell: Roy whalen. Is colin clark in the chamber in colin clark raise your hand or something. I don't see him, so you have three minutes.  
Thank you. Reside whalely. Austin sierra club. Thank you for your comments, especially councilmember spelman. And the legal department. We understand the limitations. I deal in contracts all the time. I deal in promises all the time. Promises are contracts that are written on clouds. They dissipate and disappear. Contracts are codified and put on paper. And that's what we want to have the opportunity to do today. To delay a decision on this. Until your next meeting on AUGUST 8th, GIVE THE Parties a chance to come together and actually put this in writing so that these promises are now assurances. We appreciate the good, hard work of chuck lesniak and watershed protection, much appreciation to that whole group there. But at this time, we wouldn't be dealing with so many of the issues that we do for water quality, for barton springs, if we hadn't done the service extension of the southwest parkway. It's there. Once we grant this service extension, then we have every excuse to say, well, the service extension is in place, give us these variances now. And so let's give ourselves the opportunity for the outside parties to come together, represent to you ON AUGUST 8th, PLEASE Postpone your vote on this item today, so that we can make it a superior project. Thank you.  
[04:15:22]

Spelman: Mayor?  
Mayor Leffingwell: Councilmember spelman.  
Spelman: Mr. Whalely, what precisely are you going to do between now and august 8th?  
Well, we have heard an opinion from city legal that if the owner wanted to come together with s.O.S. Or some other partner and say "we're going to put these restrictive covenants into place" then we're guaranteed that these water quality extensions or water quality controls will be extended to the other parcels and that's really what we're after is to make sure that these water quality  
-- that that is in place. That it is  
-- that it is ironclad. I don't like to use the term ironclad but  
--  
Spelman: Iron rusts after all.  
Yes, it does. And rust never sleeps. So  
--  
Spelman: Thank you.  
Thank you, roy.  
Thank you.

Mayor Leffingwell: Question for staff? Are we in this discussion this might be for a legal question, but we'll see. Are we in effect conditioning our approval of the ser on the parties entering into a restrictive covenant, which would, as you have said, be illegal.

It's kind of a fine line. But if

-- if council's action places some sort of condition on the  
-- on their approval and that condition is related to obtaining an obligation with an outside party, there's  
-- it's a gray area. It's a gray area.

Mayor Leffingwell: Gray area at best.

Tovo: Mayor, what i heard mr. Whaley and mr. Bunch ask for was a postponement to the 8th so that  
-- I assume that it is in light of their other minutes so that they have an opportunity to see if the parties are interested in entering into any kind of an agreement. If we postpone it we're not  
-- we're just postponing it and delaying our action until august. Is that  
-- would you agree with that assessment? If we postpone and allow them some time to talk, being very clear that, you know, we're going to make our decision in august, it's not going to have anything to do with whether or not there's been an outside agreement in place, we're just allowing them some time to talk about it.

[04:18:13]

Then [indiscernible] i think as long as the action by council is not taken in any way that imposes or requires a private agreement as its condition for approval, then I think that's key as long as that is understood.

Tovo: I assume we also can't require them to have that discussion, with he can just offer them the opportunity to have a little time to do so if they choose to exercise that option.

That sounds reasonable.

Tovo: Thank you.

Mayor Leffingwell: So one more question. So if we do this, if it were postponed to allow time to have that discussion and they come back on august 8th and there is no restrictive covenant and we deny the ser, would that in effect be imposing a condition?

There's that gray area again, yes. I

--

Riley: Mayor, this seems like an odd discussion. It seems to me perfectly reasonable that the council would want to know the environmental implications of as ser that could well depend on

-- can you tell me what state law provision it is that restricts our ability to condition the ser on the agreement that we're talking about?

The state legislature, i forget the year, but in section 212.172 through 174 sets out agreements.

Riley: I'm sorry 212. 212 land development code, 212.172 through 174. It specifically addresses extensions for service. And prohibits the city from conditioning

-- for conditioning extension of service on  
-- on commitments or contracts that  
-- that require higher standards other than those allowed or required by state law. So  
-- so that's the section.

[04:20:21]

And

-- and okay. I'll take a look at that. Thanks.

Spelman: Mayor?

Mayor Leffingwell: Councilmember spelman?

Spelman: S.O.S. And the sierra club are important constituents in this community and they would like us to spend

-- they would like us to postpone action on this item to give them some time to talk with the developer in this case. I think we should give them the time to do that. I move to postpone items 18 and 19 until the 8th of august.

Mayor Leffingwell: Motion by councilmember spelman to postpone until AUGUST 8th. Seconded by councilmember morrison. Councilmember tovo?

Tovo: I'm going to support this motion, but we still have another speaker?

Mayor Leffingwell: No.

Tovo: I'm sorry, I thought the applicant was going to speak. Thanks.

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

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0. I will call up item no.28 which was pulled by the mayor pro tem. We do have a number of speakers, do you want to say something first or willing directly to speakers.

Speakers, please.

Mayor Leffingwell: Barbara scott.

Good morning. We know that a people without a vision perish. For 30 years the colony park like side community

--

Mayor Leffingwell: Ms. Scott. I forgot to line up your donating time speaker. Vera givens, is she here? Okay. So you have six minutes.

We know that a people without a vision perish. For 30 years, the colony park lakeside community and surrounding census tracts had no vision and no hope. ON THURSDAY, JUNE 20th, The farr & associates gave us hope with a vision. Not only of roof tops for the 208 acres that are to be developed, but of infrastructure that will be inclusive of the existing communities. Pharr & associates connected with the community in a way that McMan & associates did not. McMAN TOLD US ABOUT THE Success of mueller or mueller as it was called when I moved here four years ago but failed to give us solutions for the colony park, lakeside and surrounding census tracts. Pharr is willing to engage the community to address our needs. The design team that is awarded this contract must address the needs of the community and the only way to accomplish this is by connecting with and engaging with the community. if McMan is awarded this contract, the end result will be roof tops with no infrastructure and the opportunity to correct the disenfranchisement of a community for the last 30 years will be missed, which will ultimately result in failure to meet the goals of the h.U.D. Grant. I am here as the president of the colony park neighborhood association to ask you to award this contract to pharr & associates. That's it.  
[04:24:12]

Mayor Leffingwell: Thank you.

I don't need six minutes to ask what I want.

Mayor Leffingwell: Very well done, very well done.

[ Applause ]

Mayor Leffingwell: Margarita [indiscernible] donating time is jo anne barts, so you have up to six minutes if you need it. [Laughter]

mayor leffingwell, city manager, marc ott and councilmembers good morning, I also want to recognize my community, colony park neighborhood association and residents and supporting residents of that area, please stand. Thank you. Thank you. My name is margarita, resident and member of colony park neighborhood association and assistant secretary to that association. I am also here to speak on behalf of our community. We are at a crossroads. Not only as a nation where just recently the highest court of the land shook down a key provision in the voting rights act. Setting the clock back perhaps generations to come. Austin as well is at a cross road. Our society is changing. We are losing whole generations of african-american and latino communities. Today you will be asked to make a decision on the design team to lead the planning of 208 acres at colony park and surrounding communities. We are here today to ask that you join us in  
[04:26:15]

[indiscernible] pharr & associates rather than the one recommended by staff. Let it will known however that the staff of the nccd, mbe and cmd have been more than accommodating. I want to thank you. Pharr is not only better suited to our needs, but their reach is global and national. When the core colony park neighborhood

association met with pharr associates, they walked into the room, rolled up their sleeves, laid down a map and began an incredible conversation with us. They had prepared a vision that spoke to us. And because of time, I will touch briefly on the vision of the complete community for colony park. First and foremost, our community is riddled with high crime and in 2011, 41% of youth and young dates ages 18-24 did not complete high school. 56% of youth ages 0 to 24 income below the poverty level are latino, public transportation is almost non-existent, there are no grocery stores within walking distance, squalor can be seen by the dumping of trash, weeds growing taller and taller, making it prone to a fire disaster ready to happen. And the list goes on. Pharr associates in their description of a complete community mentioned that before we consider building roof tops, we must first engage the community, block by block, to comprehend and assess the needs, challenges and issues facing our community. We must take care of the whole person. Not piecemeal, but create and design a place for grocery stores, where grocery stores are within walking distance, a bank, retail shops and perhaps a medical facility. You see, when I asked them point-blank what is your interest in helping our community? They responded by saying: Planning with the whole person in mind. As mr. Pharr said, wouldn't it be wonderful to build a community where you could grow old with friends? Rather than having to move, wouldn't it be wonderful to build a community where the phases of your life to age in place happens right there where the community is helpful, sec educated. If you have not traveled to our community, I would recommend it. You see through the vision proposed by pharr colony park and the surrounding neighborhoods would become a destination, not a place to flee from. Where we can envision a future for our children and generations to come. You see, their vision was contagious and passionate. Their outreach plan embassies the aspirations of our -- embraces the aspirations of our community. They talked about embracing the challenges and issues by colony park. We have to meet people where they are. If it means standing on the corner of bus stops, standing on a corner of gas stations, catching people at social events, that is their plan for community engagement. It has to be an outreach with leadership and neighborhood education. What do they mean by this? That engagement can be fun and meaningful. And finally, the vision is inclusive. That the 60 plus acres designated at parkland must be folded into the infrastructure and yes, indeed, as a nation, as a city, we are at crossroads. You who have been given great responsibility to ensure that fair and equal treatment be what governs your decisions is at task here. I do not know about your moral or ethical obligations to those who experience what we are experiencing at colony park. But I do know that what is decided upon today will impact our neighborhood for generations to come. [04:30:43]

[Buzzer sounding] is that six minutes?

Mayor Leffingwell: Yes, ma'am, thank you very much.

Thank you.

[ Applause ]

Mayor Leffingwell: Helen miller. Helen miller has three minutes. Good morning mayor, city council members, city manager, I'm here this morning to say in order for us to have a better place for our children in future generations, it is my request, along with the other colony park lakeside members that pharr & associates be awarded this contract. We are losing so many children just in our community. And these kids need to see something new and bright. These children see something new and bright and we probably can catch a lot of 'em from doing things that are getting them into trouble and keeping them off the streets, some just asking today, please, just award pharr & associates the contract for colony park. Thank you.

Mayor Leffingwell: Thank you, helen.

Melvin [indiscernible] donating time to melvin is sharon hall. Is sharon here. I don't see sharon -- okay. You have six minutes.

Good morning, mayor, members of the council and the city manager. First and foremost, I want to thank staff: We had good cooperation from all staff. We had it from the neighborhood housing community development department, we had it from the contract management and from the minority procurement department. So we had worked as a team, we made sure all of our information was included. I through that I also want to thank pharr & associates AND I WANT TO thank McMan for submitting their rfq, i know McMan personally and also members of our team. In looking at pharr associates and what was done, the cooperation that took place, I think it's very important to realize that had there been a little bit more focus on the low to moderate income,

disadvantaged community, had there been a little bit more focus on including within the point structure the meeting that the core team had with the

-- with the two consultants and the evening meeting that the public had in terms of the public meeting, it is important to note we in that precinct have approximately 100 or so votes out of the precinct. That night we had more than 100 people present. It's a sign of the

-- of the outreach on the part of the neighborhood

-- the neighborhood department under betsy spencer, it's a sign of the community going out and making sure that all signs were posted, noticed were put out and people were contacted. So I think we've done our job and now we come to you saying you are our voice and we hope and we pray that you will be the voice of the community recognizing that the

-- the evaluation piece that we had in terms of questions and answers and consultant and the evaluation that the community had are not in point. We need you to be on point with us and hopefully realize that this is the beginning of something new. This is the beginning of a great opportunity for the city of austin to reach into a community that's been isolated and separated and come up with solutions. Mr. Sero mentioned the fact that we have 60 plus acres. We actually had approximately 80 acres of parkland in that area. When you take the 70 that you have plus you take part of the school land, they've got 28, almost 28 acres and part of that could be convert parkland. So we have enough parkland to have a park complex, to have everything that's imaginable in that community which would also be an economic development driver. Again, I thank you, I thank the councilmembers for taking their time and visiting with us and asking some very poignant questions and we appreciate everything that you do and we just hope this time is for us. Thank you again.

[04:35:36]

Mayor Leffingwell: Thank you.

[ Applause ]

adrian isom.

I'm going to stick with the script here. I'm a resident of the colony park like side district northeast austin. I'm also a representative for travis county historic commission, representating precinct 1, which includes our district. And first of all, I want to thank the mayor and the entire city council for your tireless energy in working to help the northeast corridor to move into the future. Last week I learned a great deal more about our community. With over 100 residents of the colony park lakeside district reporting to the colony park association charette with the purpose of learning the individual professional skills of two candidates, mccann and adams, developers of the outstanding mueller site and farr associates, nationally known for futuristic transformations of neighborhoods such as ours, colony park. Public school, higher ed instructors, retired professionals, medical professionals and trades men. Speaking from an historical point of view, who live the history which I had to learn, it is a known fact that african-american, hispanic and frankly all communities have had a balance in progress versus high crime when the neighborhood attract goes the economic professional classes which creates a village, a strong village supporting the weak, the teachers teaching households with absentee parents, the tradesmen teaching the young their trades. In lieu of this formula, the colony park neighbors discerned that farr had the most experience in creating futuristic red-line less progressive communities and I hope that you would view this historical information in

-- in your reviewing the information concerning our project. Thank you.

[04:38:00]

Mayor Leffingwell: Thank you. That's all of the speakers that we have.

[ Applause ] mayor pro tem?

Cole: Mayor, I would like to first recognize the hard work and good work that mccann has put into this contract. But I think we have heard adequately from the community about the vision and values that farr has provided and given that they are the most qualified provider and they have communicated directly with the public and I think we would be in a precarious situation to put a design team in that was not starting out on solid good footing. And

I don't think the information that the community has provided can be discounted. And, also, farr has the experience in other major cities in dealing with low and moderate income communities. So I would like a motion to approve item 28 as posted, except to authorize negotiate an execution of a professional service agreement with the farr associate and urban design group joint venture instead finding them to be the most qualified firm based on the qualifications.

Mayor Leffingwell: Mayor pro tem cole moves to approve the item with farr as the named consultant. Seconded by councilmember spelman. Is there any further discussion? All in favor? Councilmember morrison? [One moment please for change in captioners] they consider farr one of the nation's most highly regarded firms in the area as far as sustainable neighborhood design and suggested there would be new ideas and out of the box thinking that they would bring to the city of austin. So I think that's

-- that is an exciting opportunity. And I want to acknowledge the neighborhood and staff and their hard work that they've done in this. And it wasn't too long ago that this project felt like it was completely going off the rails. And I appreciate staff and the neighborhood being willing to stick with it and really come together to get us on a very productive path. And I think one of the things most significant to me is the neighborhood's sense of their ease and engagement with farr because without that kind of dialogue and comfort level it would be very difficult to really achieve success so I'm fully supportive of this motion.

[04:41:23]

Councilmember tovo?

Tovo: I agree with the comments of my colleagues and the neighbors. We have two strong teams, but I'm proud to support this motion today. We have ample evidence from the team that they look forward to working with them and it's really critical. I want to mention thank you to the neighbors for all of their work and to the staff for all of their work. The neighborhood has mentioned some

-- has made some suggestions about process going forward and i think those are really key. I asked some questions through the q and a process about community feedback. We've had this discussion here before about when we're considering teams. Most recently with the land development code rewrite. We had a council presentation that those teams went off and met with the planning commission and others and community members. There was a considerable amount of public feedback, but none of it gets factored into the staff recommendation. So thank you for your response in the q and a process saying that that is an area of enhancement that you're looking toward. And I didn't know if you wanted to speak to that point.

Yes, rosie truelove, the director of contract management department. I wanted to reiterate that that is something that is a great learning process from the two most recent procurement processes, we will be looking at the process to look at if there's a way within the confines of statute and what we can do legally that we can incorporate that element into our evaluation and what we present to you as a council.

Tovo: Great. I'm delighted to hear that and thanks again to the the community for raising that and thanks for your willingness to consider how we might do that going forward. I think it's really important if we're asking folks for their feedback that it has some impact on the decision making. Thank you. And thanks again for all of your work on it.

Mayor Leffingwell: All in favor of the motion say aye? Opposed say no? It passes on a vote of seven to zero. [Applause]. Now we'll go to the hispanic quality of life briefing. Is anyone here for the hispanic quality of life briefing? Are you making the initial presentation? Go ahead.

[04:44:18]

Good morning. And thank you. Mayor leffingwell, mayor pro tem sheryl cole and councilmembers, and my team members and the supporters of the hispanic latino quality of life. This report is a little long and I would have been standing or I don't think i would have made it.

Mayor Leffingwell: Just give us your name.

I'm theresa perez wisely. I'm the chair of the city of austin's hispanic quality of life taskforce. I would like to first start by recognizing the staff. I know that some of them are still here. I would like for them to rise. The staff that

worked directly with us, please, if you're still in here. I want to tell you that this is a very unusual group under the taught ledge of burt lem breast cancer as. They brought out the best still I've seen in city staff in a long time. Thank you for that. I also want to thank the community who is here to support us. They've been here since 9:00, so some have obviously had to go off to other projects. But personally I also want to thank two people. Former city council woman randi shade and councilman mike martinez for allowing me to be here today. Thank you very much. [Speaking in spanish]. This is a document that was developed in and by the community. No matter what part of town we lived in, it's our guest to the city of austin.

-- Our gift to the city of austin. All right, here we go. History. May 2008, austin city council passed a resolution initiating the hispanic quality of life. Evaluate the quality of life for hispanics and latinos in austin, texas as compared to hispanics and latinos nationwide. A consultant coordinated community engagement efforts and combined the first phase of the report. The community oversight team incorporated the consultant's information, census data, expert's testimony and community input into the second phase of the hispanic latino quality of life final report. The team met with hundreds of members and groups and hosted a hispanic quality of life town hall meeting to garner public input. Many of the community's recommendations were incorporated into this report. The final report includes an additional set of recommendations for the city council and the austin community. The oversight team requests that council create a hispanic latino quality of life resource advisory commission to carry forward the work of the oversight team after receiving this report. The hispanic quality of life team included myself as chair, susana almanza sitting right here to the left of me, johnnie limon, sophia (indiscernible) and several others. Some of us are here. The areas of interest included education, youth, housing and community development, cultural arts, economic development, health, civic engagement and transportation. The oversight committee decided to look at the following areas of interest as they relate to hispanics and latinos in austin and travis county. After numerous meetings with individuals in the hispanic and latino community, community-based organizations and the town hall meeting held here at city hall, the committee chose to explore these eight quality of life issues. First I will discuss the issues related to each and our group's recommendation on each and how to improve each other for hispanics and latinos. Education. In 2011 dropout rates in ice ace for hispanic students in grades nine through 12 was 1.8%. In students in high school only 52% enrolled into post-secondary school and only 39% were considered college ready. There's a lack of summer youth programs, comprehensive mentoring programs and overall lack of training programs for students that are seeking non-college careers. While the city doesn't hav direct oversight, there could be increased collaboration between government, corporate and educational entities to foster students' academic excellence. Our education recommendations include the  
[04:49:44]

following: Urge continuing collaboration between the joint subcommittee of aisd, the city of austin and travis county to recommend the group consider the recommendations from this report and the hispanic quality of life initiative. Enhanced partnerships and collaborations with local isd's, city of austin, travis county, area colleges and universities and nonprofit organizations. The city should facilitate discussion of a youth court for truancy. Develop educational programs to address the need of youth in crisis and implement preventive measures that will keep youth in school. Develop a career leadership academy that will be dedicated to professional careers in the public sector that do not require college degrees. Youth services. Some of the more prevalent issues related to youth services include hispanic latino youth make up a large population of juvenile justice system and many do not have adequate health coverage. Most hispanic latino youth are underemployed or under-- underemployed and lack the basic skills to help them secure work once they reach adulthood. A lack of internship geared towards hispanic and latino youth prevents them from learning the basic skills for gainful employment. There's a lack of resources for organizing sports and activities that promote youth development in low income areas. There's also a need for organizing activities for hispanic and latino females. Our youth recommendations include the following: There needs to be an increase in opportunities for programs, training and youth development at the city of austin facilities such as recreation centers, libraries and neighborhood centers. The city should collaborate among local school districts to create programs to reduce truancy and increase graduation rates. There needs to be an increase of health services for youth. The city should create programs for increased building and opportunities for our youth. Housing and community development. Some of the issues we see with housing include there is a rapid increasing property appraisals that are leading to much higher property taxes, for

example, hollywood neighborhood. There's an increased need for affordable housing. There'sly there's a shortage of affordable housing housing units for those under the median family income or below. We need roughly 39,000 affordable housing units to fill the need of households making fewer than 30,000. 58% of the populations live in rental homes and close to 50% of those renters pay a significant portion of their income as rent. The problem of affordable rental housing is acute in austin. Rental housing is in short supply and distributed unevenly across the city adding to distribution costs to reach employment centers. Our recommendations for housing include the

[04:53:30]

following: The city should promote affordable housing core values. Long-term affordability, geographic dispersion and deeper levels of affordability. Restore the housing trust fund to a million dollars or more annually. Create a local hispanic historic preservation district whose boundaries would consist of rainey street on the west, lady bird lake on south, east seventh on the north and highway 183 on the east. Expand alternate revenue sources to promote diverse housing types throughout austin. Develop affordable housing at bettie dunkerley campus. Preserve the integrity and the character of existing housing in central east austin by funding rehabilitation over demolition. Provide leadership in education for affordable housing and community development. Promote sustainable practices and preserve existing affordable housing. The city should include affordable housing in all future bond elections. Cultural arts. Some of the issues we see with cultural arts includes the following: All community members should have access to high quality of life, made possible in part by cultural arts services. The hispanic latino arts organizations have been historically underfunded. Funding continues to decrease and the number of city funded hispanic latino cultural arts organizations are also decreasing. The major hispanic latino cultural arts institutions, the alma barrientos mexican american cultural center need support to fully develop the facilities and operations. The hispanic latino population is rapidly growing and funding for cultural arts should reflect disproportions of the total population. Our recommendations for cultural arts include the

[04:55:53]

following: Continue to support hispanic and latino facilities. Increase funding for operations and programs for the macc and its future construction phases two and three. Increase funding and programming at recreation centers. Senior centers and other pard facilities to improve arts programs and education in partnership with the hispanic latino arts organizations. Continue support for the following: Fifth street mexican-american heritage culture, reblake jury park, mexicarte museum, saltillo plaza. We also recommend the creation of a stand alone cultural arts division. That will do the following: Include culture and heritage festivals that are based on tradition in cultural arts funding programs. Funding for capacity building programs should be reinstated to help strengthen the administrative capacity for hispanic and latino organizations. Evaluate a funding system formula that would ensure results are reflective of the hispanic quality of life recommendations. Create an outreach program to increase hispanic latino arts organizations, applications to the city of austin's cultural arts projects. Designate an hispanic latino music liaison as part of the music office to assist latino musicians in navigating funding and marketing opportunities. Economic development. Key issues that were identified within economic development include hispanic latino participation in economic ventures is not equal to the proportion of the total population. There's a lack of opportunity for knowledgeable, experienced and local hispanic latinos to develop concepts or carry out implementation of community-based economic development projects. Austin's historic hispanic latino neighborhoods have already been largely displaced. Some historic landmarks still exist. Without positive action it is unlikely that physical evidence of the early hispanic latino life in austin will endure. Workers of projects receiving economic development subsidies from the city of austin chapter 380 agreements should be guaranteed decent jobs, work, safety, training and a living wage. Our recommendations state the city fund an academic development corporation that is owned by an hispanic latino that is intended to benefit local hispanics and latinos. The edc will develop an economic development academy or institute to train local hispanic latinos to create, manage and maintain appropriate economic ventures. Enhance partnership requirements to ensure funding is connected to both performance and demographics. Expand the economic growth and redevelopment services office initiatives to include identification of hispanic latino businesses globally seeking to expand in

austin. Support living wage of \$11 or the department of labor's prevailing wage, whichever is greater for all city of austin projects related to chapter 380 agreements. Health. Some alarming health issues  
[04:59:41]

are: In 2010 diabetes prevalence for hispanic and latino population in travis county was 12 percent. In 2012 the obesity prevalence for the latino population in travis county was 41.8%. Between 2005 and 2009 60% of all births to single mothers were hispanic and latino. During the same period 76% of babies born to mothers younger than 20 were hispanic latino. Healthy food options are not accessible to all members of the austin community. Less than 24% of the travis county hispanic latino adults are eating the recommended five or more fruits and vegetables served each day. There's a lack of promotion and ineffective outreach about healthy lifestyles and health prevention programs in sections of the community that are most in need. Health recommendations -- recommendations for these health issues includes the city should work with partners on improving the current service delivery model. Clarify role of the city of austin in providing health care services versus other providers, clinics and primary health care centers. There needs to be an increased effort to cultivate and promote healthy lifestyles by addressing hunger in our community by improving accessibility to healthy food options. Increase the promotion of healthy lifestyles by providing ongoing support for organizations that conduct and facilitate programs and outreach for healthy lifestyles and disease prevention. Health care funding priorities. In the next five years there should be increased collaboration and oversight of the 1115 medical waiver programs funds, about \$600 million. These funds need to be focused on the elimination of disparity in health care. Collaborate are central health on primary health care services at the bettie dunkerley campus,, for the govalle johnston terrace neighborhood. Increased funding for planned parenthood and teenaged pregnancy prevention. Civic engagement. Within civic engagement we saw the following issues: Stronger efforts are needed by the city of austin to engage the hispanic and latino community. There is a need to increase hispanic latino participation at city council meetings where public policies regarding hispanic issues like gentrification and development projects are discussed. There's a lack of civic engagement across all austin residents, including the hispanic latino population. More extensive involvement and engagement is crucial in the electoral, municipal arenas. The city should provide bilingual presenters that will improve the community dialogue. In addition, public programs and materials are needed in both english and spanish. Our recommendations include: Ere should be cultural competence training to city staff on hispanic and latino culture, history and language. Convene community discussions and community forums to train latino residents on important public policy issues affecting their welfare. There needs to be a comprehensive community outreach and education program that will involve publication of materials, videos, presentations and media messages. Create and support hispanic latino leadership development programs that build capacity of individuals to engage in civic participation and public policy making processes and increase membership on city boards and commissions. Transportation. Several transportation issues include the  
[05:04:04]

following: There's a lack in transportation services and strategies for hispanic latino youth. There are transportation elements needed to increase safety in our hispanic latino communities, including, but not limited to street lights, sidewalks, cross walks and bicycle lanes. All schools public and private should have school zones around their boundaries. Bus stops need to include shelters and buses should have storage capacity for baby strollers. Our transportations needs include the city needs to improve our neighborhood transportation safety issues such as additional lighting, emergency call boxes, additional sidewalks, sidewalk improvements and hybrid cross walks in low income areas. City should work with local isd to ensure school zone signs are visible around all schools. There should be focused outreach to minorities to include them in the transportation planning and decision-making processes. City should work with capital metro to improve the bus stops by adding shelters, baby stroller storage on buses and discounted fares for our elderly, disabled and youth. Finally, I would like to reiterate our request for the creation of the hispanic latino quality of life resource commission. We request that the council create this body and appoint members within 60 days of this briefing. Thank you for your time and opportunity to work on this endeavor.  
[05:06:05]

Mayor Leffingwell: Questions? Councilmember martinez.

Martinez: Thank you, mayor. Thank you and all the other committee members and community members that served in an advisory capacity. The list is numerous, so i won't go through all of it. Needless to say, five years of very hard, dedicated work. I do want to repeat one thing that you said, and that is to thank our staff, am the lead staff in the end who was assistant city burt lumbreras who made this report to council and that it would be done not only as quickly as possible, but appropriately done as well. And I think he's lived up to that commitment. I agree. And I want to say that if it hadn't been for him this thing would not have moved the way it did since january. He and the staff assigned to him were absolutely crucial in what happened.

Well, obviously there are many, many recommendations, many of which contain fiscal impacts. And that is where we move next. What are the priorities, how does this council fund many of these -- I'm not even going to call them suggestions. This is a play book, if you will, that council needs to move forward on and implement as soon as practical and possible. So I look forward to working with the advisory commission. And as you all might expect we're probably going to get way more requests than we have positions for this advisory commission. And that's a good thing. It's not a bad thing. What I would like to just emphasize is that certainly we are going to entertain any and all who are requested to be appointed to this commission, but i appreciate you at least suffering 60 days to make that decision. It's not going to be an easy decision. I know we'll have some incredible candidates step forward. And so I look forward to going through that application process and getting this commission up and running. The last thing I'll say as it relates to the fiscal impact of these recommendations, I have spoken with acm lumbreras and he has said he will come back as soon as practically possible. When I say that I'm not talking about 60 days because we have a budget process looming within the next 30 to 60 days. His commitment is to give us the information that's necessary so if the council wants to make recommendations and implementations during this budget cycle, that we have the information necessary to do that. So I don't want folks to think that we are pushing aside the fiscal impact. We're not. We just need more time so we can mesh it up with the budget work that's already going on and with some things that we actually already have some place so that they won't have a fiscal impact. So I just want to reemphasize my thanks to everyone who came out today in support of this. This is not the end. And I know you all know that. You worked very long and hard on this. This is actually just the beginning. Now the real work starts of implementing each and every one of these recommendations so that the latinos in austin understand and embrace this city council as we move forward with policies that directly impact and affect their lives.

[05:09:27]

And councilmember martinez, thank you so much for those comments. Susana almanza with the hispanic quality of life. I wanted to add that one of the things that was real important that you bring up the commission because one of the things that we discussed

-- we wanted to make sure that there are so many different categories and issues that we also make sure that we appoint people that have those understanding and capacities. And so that we want to make sure that like, for instance, we don't just appoint everybody who supports affordable housing, but also that looks at transportation, economic development so that we'll have a wide spectrum of representation on that commission. And the other thing I would like to request is that as we look at this report we look at the chair of our elderly -- the care of our elderly and everyone else, but I think the most important is the next generation and the future generations. And so I'd like to request at this time that one of the youth representatives, skyler bonilla, be given the opportunity to just say a few words regarding the future of those generations.

Mayor Leffingwell: Certainly. [Applause]. And after he speaks, I would like to ask mr. Lumbreras to come up and talk a little bit about the staff's role in this process.

My name is skyler bonilla and I am a student at austin community college and president of chicanos in action student group. We're a group of mexican-american students dedicated to the promotion of our culture and history and the advancement of our community. My family has been in austin for generations. My grandfather shined shoes on sixth street and sold papers on congress. And I personally am a product of the east austin

community. As college students we're all searching for our identity and a place in this world. And now I am coming of age and I want to do something to give back to the community that raised me. I want to lift up my community back to the tight knit family that we used to be. As I take on this role i come to find out things that I thought would never be happening in this great city. I'm here today to tell you about the plight of the mexican-american community. We're being marge alized by an education system that does not suit our needs and a city council that places the priorities of developers and outside entities above the needs of the people. The mexican-american people have been marginalized within our community, within our own community and the desires of a new

[05:12:28]

(indiscernible) take precedence over our community needs. This has been happening for too long and we need protection from being totally pushed out. Before I was even born our original mexican-american cultural center, the juarez-lincoln building, who many people in this room can remember, I wasn't even born and I can almost remember from the stories I've heard. It was demolished. It was on cesar chavez and i-35. It was a beautiful mural of the elements, los elementos. And what do I see there now? An ihop. I'm angry that our culture and my inheritance was demolished only to put a city-run macc on a secluded piece of land and surrounded by condominiums. Only to have city staff use our facilities for free while the mexican-american cultural community has to pay to use it. When I see that history is repeating itself all over again in 2013 with our beloved mexican-american cultural center, I'm called to action. When I see that the neighborhood that I have so much pride in is being given away to developers and the gentry class of austin, I am called to action. Our community, our history and our culture are under attack now. And no one wants to talk

-- talk or address the issues that mexican-americans are facing in austin. A ross is a round table, chicanos in action and many other organizations in austin are here to let the council know and the community know that we are a people worth listening to and we are a people worth caring for. We don't want the council to wait until the problems of our community exacerbate themselves to the point of no return. So we are committed to holding the council accountable to this report. We don't want to see these items looked at as mere recommendations like mike martinez said, councilmember mike martinez said would really appreciate these words. Yet these are more than just recommendations. They are the beginning of what is needed to bring justice and equality to our community and other marginalized people groups in austin. The posture towards our community must change. The city of austin prides itself as being progressive and at the same time our community is being pushed east of town. 60% of students in aids are latino. Those children must be able to contribute to a vibrant and diverse austin. Latino success is austin's success. My name is skyler trey bonilla and I represent the young people in the mexican-american community here in austin.

[05:15:36]

[Applause].

Mayor Leffingwell: [Inaudible]. Could I ask you to please hold down the noise? You can clap, but please don't yell.

Mayor and city council, good morning, burt lumbreras, assistant city manager with community services. I can tell you without hesitation that this was a labor of love for staff in terms of our involvement. It was certainly something that we were very passionate about. The staff that we put around it were passionate about not only being of service and we humbled ourselves to the oversight team that actually did a magnificent job in being able to think not only in some cases some people talk about thinking outside of the box. They didn't have a box. They really were totally outside looking at all of the issues. They started out with a few issues. They really expanded their role and that's why i believe it took a little bit longer than what we would have loved

-- liked, but they were being very comprehensive. They were being very attentive. They mentioned early on in their presentation that they had hundreds of meetings with folks, a lot of different community meetings. They were being very sensitive to the feedback and comments that they were getting even from individuals that walked up to them out on the street. So they should be really highly commended for their good work. Staff's role I think was important because we wanted to get you to this point. As councilmember martinez said, we are still committed and not going to get to

-- we're going to get to the point where we're going to provide the fiscal notes associated with it in very short order because we believe that that's critical for you to consider in this budget process as we come up to this fiscal year. We have some preliminary estimates, but I think there's a lot of work to be done in vetting out. Also we want to correlate it back to as you know we're already underway on our end of it on the budget process and I want to make sure that we're not duplicating the request with what's already in the proposed budget or initiatives that are already underway. So we've just got some work to do to be able to just be able to get that all wrapped up. But that's our commitment and we're going to follow through as we have up to this point. And it's just been something that we really have thoroughly enjoyed being of assistance. Ray beray has been another one who has been really involved in this and all of the key staff that were mentioned earlier just did a magnificent job. I really thank the city manager for allowing us the opportunity to do this.

[05:18:14]

[Applause].

Thank you. I think there is staff in the room that -- that you may want to point out.

Yes. We have my executive assistant, Jason Garza, who has been doing the powerpoint, but also Samantha Park, who actually stepped in. Sam, if you could stand up. She actually stepped in on an interim basis to assist Ray and came over from Pio, but really did a lot of the bulk of the work, as well as Rox 16 Evans, who is deputy city manager's executive assistant. And then I'm sure we had some other staff as well, but of course I mentioned Ray and but those were primarily a lot of the key staff, and then of course the staff that was working on the graphics in support as well.

Mayor Leffingwell: I want to thank my staff who contributed their efforts towards this plan and all the community members too. I know you spent a lot of time on this. I frankly speak for most of us up here that it's long overdue. I'm glad to see it's done. We'll look forward to making progress on this in the future and I think the steps that are going to be taken, the physical notes, etcetera will lead us along a path that you will be happy with.

Cole: Mayor, I have a question.

Mayor Leffingwell: Councilmember Morrison is next and then you.

Morrison: I think for myself and probably a lot of other people in this town, to have a validated roadmap of things that we really can be putting our energies into. I just want to ask Mr. Lumbreras one of the things that jumped out that's free, no fiscal impact that we can do, I can ask Mr. Lumbreras to please see about getting a presentation of this on the joint subcommittee's agenda in the near future because I think that will be of great interest to the trustees and the commissioners that the Mayor and Councilmember Tovo and myself work with on that committee. And I know that we do a lot of work in terms of identifying work plan items. And I think that this will give us a lot of food for thought.

[05:20:32]

You have that commitment. The neat thing about my other role is I serve as executive lead to the joint subcommittees, so I think I have a little bit of weight in that area. I think we can make that happy pretty quickly.

Morrison: Great, thank you. And thanks everyone.

Mayor Leffingwell: Mayor pro tem.

Cole: I'll echo all the comments and especially the need for this type of information. So I have one question that's jumped out at me that I'm just curious about. I know you have lots and lots of areas of interest and it was hard to narrow those down and focus on them. I was wondering why there was not an area for workforce development or employment or what those conversations were about.

I think we just ran out of time and there was a lot of pressure to get the report down and out because we did note that there was a lot of things that needed to be improved and included. We just had to stop at some point. We hope that the new commission will pick up there.

There you go, exactly. We hope that that will be the task of the new commission to really hit on that because you're right, those are very interesting points and important.

Cole: Thank you.

Mayor Leffingwell: Councilmember tovo?

Tovo: I just wanted to also say thanks. This is very great to have very specific recommendations and thank you for being so comprehensive and having such a detailed focus. I think this is very, very useful. I wanted to make an observation that youth programming appears multiple times in this document and I think it's really timely that we have this presentation here today. Earlier this week we had a discussion at our audit and finance committee about youth programs and the ways in which we might begin to provide scholarships and fee waivers for youth in our community who really need to have access to programming, but may not have the funds to do that. And so I think we all share a commitment in making sure that youth throughout our community have access to the great resources of the city. So thank you for highlighting the need for youth programs. I see it under education issues, the lack of summer youth program. I see it again under youth services issues, the need for organized sports and other activities that promote youth development and also a particular need for organized activities for hispanic and latino females. So again, thank you, especially for focusing on the important need for more programming for youth in our community, hispanic youth in our community. And I hope that as we move into the budget cycle we'll continue to keep youth programming and youth services a high priority and pay great attention to some of the suggestions that I hope will be coming forward from our parks and rec department about how to make those services more readily accessible to youth throughout the community regardless of income.

[05:23:26]

Mayor Leffingwell: Thank you. We have a few more minutes before noon time certain, so we'll go to 29 pulled by councilmember spelman. There are no speakers.

Spelman: I'd like to ask a question of city purchasing staff if I could.

Mayor Leffingwell: Trying to work his way up here.

Spelman: Swimming against the tide like a salmon.

Thank you to your paris. Kevin Johns, director of economic development.

Spelman: Thank you, Kevin. I understand that this is a contract for

-- to a particular company, community initiatives development corporation. They'll be providing us with professional services to assistance of economic development work. It is typical of us for projects of this kind to send an rfq as I understand it. Why did we not send out an rfq in this case?

Mayor Leffingwell: Excuse me. Could I ask you to hold it down, please, as you exit the chamber so that we can continue the meeting? Just hold down the conversation. Thank you.

Thank you, councilmember. You may recall that the origination of the pursuit of the 108 grants competition at HUD was what precipitated this. And we hired the company to develop the family business loan program based upon the best practices that they were running and to apply for eight million dollars' worth of federal dollars. And so we did do that and we were successful in obtaining the eight million dollars, requested setting up of the family business loan program. So this is a continuation of that initial request, so this is a national consulting firm, a small nonprofit, but a national consulting firm that has unique experience in the 108 programs. There is only -- there were only 700 108 loans made in the entirety of last year. So it's one of those types of unusual programs that is very complex, that is

-- requires a certain type of skill set that we felt like we had the person who designed the system for us, that helped us get the grant successfully in place, structured with our local banks, credit unions and CDC approved lenders, a 27-million-dollar loan program. We have gotten approval from the council on the first loan and we have a 10-month deadline to spend the first three million dollars. So that's a long way of saying that we feel like we've got an excellent small team available in place and we'd like to keep them in order to move forward rather than going out for an additional bid.

[05:27:06]

Spelman: Are they spending the money with us or are they just procuring the money? These guys are writing proposals, aren't they?

Ctic did put the proposal together for us, but they helped design the family business loan program for us. They're training our staff to run it. And are working with local businesses to structure the first loans. Each one of the loans requires at least three lenders. And so they're very complicated. And so that's kind of the guts of why we're trying to stick with the firm that we started with.

Spelman: Okay. And that's the critical issue for me. So these guys helped to design the program, wrote the proposal and now the money is in hand and this continuation is in part for us to continue the program that they actually designed.

Yes, sir.

Spelman: Okay. It seems like it's more than sufficient requirement for a sole source. I didn't see the word sole source and I didn't see a matrix because you didn't send it out for bid. I do have a technical question for byron, though. I didn't see this sent out for bid. Under what circumstances can we go with a sole source contractor?

The department's ability to choose whoever they want to be an internal method, which is how they determine that the most qualified is or an external method, which would be a request for qualifications both apply. So being a professional service, they have the ability to select this company based upon their analysis of who is the most qualified to do it.

Spelman: Okay. And do we have city policies which help to guide department heads in deciding which way to go internally or externally?

Yes. And we provided training on those to the executive management of the department, so egr has already had that.

[05:29:10]

Spelman: Okay. So this was the choice that kevin made was consistent with city policies?

Yes, sir.

Spelman: Terrific. Thank you very much. Mayor, move approval.

Councilmember spelman moves approval. Second by councilmember martinez. Discussion? All in favor?

Opposed say no? Passes on a vote of six to know with mayor pro tem cole off the dais. We have 10 minutes before time certain. We have one item, item 72, pulled by mayor pro tem cole, that has no speakers. If we can give her just

-- i mean, a short amount of time. Let's go to item 68. Item 68 was pulled for speakers and there are two. Gus pena?

Good morning, mayor, councilmembers. Gus pena, proud native east austin austinite, we 27 east fifth street. Proud united states marine corps veteran. When I say that throughout the continent and the world, there are six marine corpses one and best is the united states marine corps in my opinion and many others. Item 68 has to do with a resolution directing the city manager to bring forward an ordinance to authorize an election for board approval of general obligation bond proposition for affordable housing. Right on target, mayor, councilmembers, anybody who is listening out there on kezi, if you remember before this came about for the voter referendum, we told the council, the county commissioners' court, anyone who would listen, educate the voters. There seems to be a voter apathy of affordable housing. They seem to think always these homeless individuals. That's not true. You have a lot of people losing their jobs, a lot of people losing their homes. They cannot afford -- there is no more affordable housing here. If it is, it's in rundberg, it's a rundown area and you wouldn't put any of it there because you have criminal problems there. You have a shooting that three individuals were shot there at rundberg and ruther ford. It's not a safe area. Mayor, councilmembers, what I would ask you again, and i will keep it short, educate the voters on the need for affordable housing. Riverside drive is building new apartments. They're not affordable. They started a \$1,200 a month and maybe higher. The last past onof affordable unions were torn down. They're also tearing them down on wilson street. Where will you put these displaced people at? We need affordable housing. I'll leave it at that so people support this resolution and support the gob proposition for affordable housing for november 2013. Please help the people out that are homeless, homeless veterans, people in need of affordable housing. Thank you very much.

[05:32:37]

Mayor Leffingwell: Jim harper? He is not here. I'll entertain a motion on item 68. Councilmember spelman moves approval. Seconded by councilmember morrison. All in favor say aye in opposed say no. Now good we'll go to item 72. No speakers. Pulled by the mayor pro tem.

Cole: Mayor, I hope i have what will be a friendly amendment. I think we need to give staff more direction about what we're asking to when we talk about analyzing the impacts of house bill 3350. I've included language that's asked for a legal and fiscal analysis along with the proposed boundaries and included property classes along with the summary. I know we decided based on house bill 3350 that multi-family would be included, and I think we need to know what other property category will be included. It's simply a request for additional information.

Mayor Leffingwell: So you're making a movement to approve with that amendment? The amended language?

Cole: I can approve the item or the main sponsor can approve the item. I wanted to give them a chance.

Mayor Leffingwell: Let's say the motion is to approve the resolution with the additional language. Is there a second to that? Councilmember martinez.

Martinez: Mayor, as the main sponsor of this item i do have some questions as to the intent of the language. On the surface it doesn't seem problematic, but the direction that I think is appropriate is that the city manager would present any necessary code amendments to the implementation of the district. In presenting a summary of necessary code amendments to me indicates some vagueness for some reason that I don't understand why a summary

-- a summary to me wouldn't be enough information for this council to move forward. A report telling us which code amendments need to take place if we choose to move forward to me is most appropriate. I'm just curious about that language.

[05:34:50]

Mayor Leffingwell: First we need to get a second. Do we have a second? Councilmember spelman.

Cole: I'm comfortable if you would like to change the word summary to report.

Martinez: Well, the original language is stated as the city manager is directed to analyze the impacts of hb 3350 and present necessary code amendments.

Cole: I thought that it would be more helpful to council to actually know the legal analysis from house bill 3350 and the fiscal analysis and the boundaries, along with the property classifications, in some type of manner before we initiated code amendments or in conjunction with the code amendments.

Spelman: Mayor?

Mayor Leffingwell: Before we get too far off here, councilmember martinez, did you want to propose an amendment or a friendly amendment or a regular amendment? Because what we have now is a motion with a second on the floor.

Spelman: Mayor, I have a proposal.

Mayor Leffingwell: Well, councilmember martinez, do you have anything more to say?

Martinez: I just need to ask for a point of information. If the motion is to adopt the item, the item does not contain amendments. The item is as drafted in backup.

Mayor Leffingwell: Councilmember martinez, we routinely have motions with amended language in them.

Martinez: And that's why I think

-- ha.

Mayor Leffingwell: If you don't like the amended language then you can make a substitute motion or you can

--

Martinez: I understand. That's where I think we get into issues when the main sponsor of this motion is not recognized to approve the motion as is. And it's allowed that someone else moves with amendments that haven't been

--

Mayor Leffingwell: Well, councilmember, I don't want to get too much into this discussion if you're questioning the way i proceeded, but the way i proceeded is I called on mayor pro tem cole because she had pulled the item off of consent. That is our normal operating procedure. She was able to address the item with the reasons for pulling it from consent and she made the motion. Councilmember spelman.

[05:37:03]

Spelman: I understand completely councilmember martinez's concern about a summary of code amendments. We can't work off of a summary. We actually change the code, we have an amendment in front of us. Would it be sufficient to just remove the words "a summary of" so that the city manager would present a legal fiscal analysis of proposed boundaries, including property classes, along with necessary code amendments? Will that do it?

Mayor Leffingwell: So councilmember spelman, you're the second. Do you agree with that as a friendly amendment?

Cole: Yes.

Mayor Leffingwell: So we have a friendly amendment that's agreed to. Councilmember morrison?

Morrison: Yeah, I fully support this and I just wanted to mention that we had some good discussion about this and I had some questions about

-- during work session I had some questions about additional information that would be covered and coming back to us under the language talking about impacts in terms of just understanding what the potential is. And I just wanted to make it clear it's my understanding from staff that they understand that as part of this resolution. And thank you, betsy. And I do appreciate that.

Mayor Leffingwell: And I'm going to support this motion, but I very much share those concerns, councilmember, and we are going to have to have a very thorough fiscal and legal analysis of this because potentially the impacts are huge. And we need to have a thorough analysis on that. And whatever the final proposal is, whatever those code amendments are, I think for me in the final analysis are going to be dependent on what those impacts are. Councilmember tovo.

Tovo: I have a question about property classes. I just want to be sure i understand that there.

Cole: Mayor?

Mayor Leffingwell: Councilmember tovo has the floor. Mayor pro tem.

[05:39:05]

Tovo: The drafter of the original language.

Cole: Back in 2007, late 2006 when we first started this discussion, it was contemplated that the homestead preservation district would apply to homesteads. And so now under the bill it's my understanding that it's a broader category that as we discussed in work session specifically includes multi-family. And so I want to know under the bill what the property classifications are and that we analyze and think about that.

Tovo: I see. Okay. I plan to support this and i just want to thank councilmember martinez for bringing this important issue forward along with his co-sponsors.

Mayor Leffingwell: Okay. Further discussion? All in favor say aye? Opposed say no? It passes on a vote of seven to zero. It brings us to citizens communication.No carrierringconnect 57600.

First speaker is gavino fernandez. Gavino fernandez.

Good afternoon, mayor, council, my name is gavino fernandez. I'm here on behalf of lulac district 12, el concilio, and also here as part of the trailer park show. If you would join me, councilmembers, with their flags, and rise as we do the pledge of allegiance. Thank you. Pledge allegiance to the flag of the united states of america, and to the republic for which it stands, one nation, under god, indivisible with liberty and justice for all.

[05:41:37]

Now, doesn't it feel beautiful to be an american? And that is the whole purpose of our parade to july

--

thank you.

In our community and I'm only speaking to the mexican american community, I have observed cinco de mayo we celebrate to the maximum opportunity. When the fourth of july comes around, we always observe allendale with

their fine beautiful fourth of july parade. We said you know what allendale, get back. We're going to do one, too. So I want to thank all of the city departments that will be there's a information booths. I want to thank the council. For your support. Especially austin energy. Councilmember riley for your support as well. Like I said the whole council. We will start lining up at 9:00 a.M. We will be taking off at 10:00 a.M., Left on chicon, head left to the fiesta gardens, also a short military service to recognize and honor our veterans and families for the sacrifice that they give, especially during the holidays when they are out of the home either the

-- either the

-- the

-- the male or female and families are left alone during christmas, father's day and mother's day. So with that, we want to invite everyone. It is a pedestrian parade. We know a lot of us walk, make our parade the 1.6-mile. You are walking activity day on saturday. We welcome all of you, we are honored to have u.S. Attorney of the western district be with us, mr. Pittman, we also have general salinas and captain, a makeup american female, a captain

-- mexican american female, a captain, immigrant raised all of the way to the rank of captain. We want to show our community and children and educate them of the significance of the fourth of july and how important it is for us in our community. Thank you, we hope to see you there.

[05:44:01]

Cole: Thank you. robert McDonald. robert McDonald.

Good morning, folks. It's good to see you all again. I use the quote that plaque down there for the memorial for the homeless people, but I failed to make it down there, write it down, so i don't want to misquote it. But it does talk about the obligation, the moral obligation to end homelessness. I think it's possible. I know originally I was planning on speaking about being a world class city. What that means. I mean I think that we have taken great steps. We have great architecture on our tall buildings. We have

-- we are the largest city in america that has a no-kill zone for cats and dogs and we protect salamanders. I think a world class city, though, will also protect their homeless. I couldn't hear one salamander dying last year. What was it? 142 homeless people died on our streets? Do you think we might have an obligation to do something a little bit better? I mean, I know a lot of homeless people. And I don't like a lot of 'em. They get mean, they get ugly, they get dirty, they get smelly. But I have an obligation to love them anyway. I have the obligation to not harm them. If we can do it for the cats and dogs and the salamanders, I pray we try to do it for the homeless, too. They really are the endangered species here in austin. The developers, I don't know if you noticed this, but I've been watching through the last 15 years or so, and the developers seem to go to wherever the homeless are sleeping and camping and they'll build houses and kick the homeless out. Which I don't have a problem against building houses. We need to build houses. Will more people are moving to austin. But a world class city. We're not there yet. I love this town and I think we can be there.

[05:47:09]

Cole: Thank you, robert. Linda greene. Fluoride deception.

Fluoride deception, is there more to it?

No, that's all that it says.

Okay. I would like to let you all know that I have this little 30 minute video called the fluroide deception, it's about a book that christopher bryson wrote. I think that you've been maybe given copies of it, maybe four years ago. But this pretty much explains the fluroide deception and goes all the way back to the late '30s where the public is not being told with the truth of the fluroide waste that's added to our water, both sodium fluroide are byproducts of the aluminum industry and the hexafloric that you all add to our water is a waste product, an industrial waste product and I related my speech to the military industrial complex, which dwight d eisenhower warned us for, he said in the council of government we must guard against the acquisition of unwarranted influence, whether sought or unsought by the military industrial complex. The potential for the disastrous rise of misplaced power exists and will persist. Recently people have come to call it not just the military industrial

complex, but the corporate industrial complex and so it is with the hexafluorosalicylic acid added to our water. It's an industrial waste product which the E.P.A. says cannot be added to Florida's water, air, rivers or streams, repeatedly you have been given this information and the fact that 41% of our teens have dental fluorosis as a result of ingesting too much fluoride. I'm going to try to burn copies of this 30 minute movie from the book called the fluoride deception so that you guys can see the progression of where the fluoride added to our water is not for the benefit of your people, of your going on half a million citizens, but in fact it's a cheap way for the phosphate fertilizer industry, the corporate industrial complex to get rid of a very toxic waste, which our own government has told y'all the CDC, the FDA, have actually admitted that it causes brittle bones, the risk of bone fracture, thyroid disease so we're asking since Mike Martinez suggested that two people had to bring this up for an agenda item, if there's any single one of you that would be willing to bring this up as an issue to remove this hexafluorosalicylic acid from our water, we've been coming to you for four years, Spelman or Kathy Tovo could you look at this and let us know.

[05:50:38]

Cole: Thank you, Mr. Nelson Linder? You are going to speak about human rights violations in the city of Austin. I am Nelson Lynn Der, I want to first acknowledge the Carter family and a lot of our supporters are here today. Let me tell you why I am here given my minuscule three minutes. I'm here to talk about what I consider to be human rights violations and the fact that the city council and city management in this city is not engaging in these issues and as a result they are going to federal courts where we're being defaulted to other citizens. But here's my first point here, in 2007, [indiscernible] Brown was shot

-- Kevin Brown was shot that began what I called the Acevedo era, that was in my opinion legally murder but nothing happened. Another good two years, in 2009 Sanders was shot along the creek. In the meanwhile we called for a federal investigation. The day after Kevin Brown, actually the day before he was shot and killed the F.B.I. said we were going to do an investigation, it went through a two year process and you guys were notified of what we found in that investigation. One of the things that you said was [indiscernible] use of force there is a deficiency because other than stating what is reasonable, more importantly is how do you determine when force is really necessary and sometimes in cases is force really necessary? That was their recommendation. Okay. It went there you a two-year process. Sanders came. And then finally in 2011 they closed the investigation. It was sent to the city manager, the city attorney. What they said was they found no clear violations, but yet there were policies here that could lead to policy violations.

[05:52:45]

[Indiscernible] days later, Byron Carter was killed. I don't think it's just a coincidence. Here's my real point. We created a false dichotomy about this issue, we tell people we're going to let it go through the process and through the courts knowing darned well in this city 9.91 police officers [indiscernible] but you city council and you city manager have the responsibility to make sure that these policies are enforced. If there's a shooting like Byron Carter, Chief Acevedo, we have a hire standard, we want this gentleman fired. You do nothing, you sit by, let these folks go through the process, leave these families hanging dry. The federal judge says you know why I can't make negligence, intent it's like your hands are tied. Let me tell you something, you have the primary responsibility, you have subpoena power. You have deserted the black community. I'm going to tell you something else, what happened to Byron Carter is a metaphor for what happens to black people in this entire city, racial profiling, lack of employment opportunities, it's all the same thing. As a city government, you have the right and the responsibility to ask questions, let folks know that you run this city and that the city manager can in turn say you know what if my [indiscernible] said this is an issue, it's an issue. You leave out the [indiscernible] -- you leave these families by themselves, let me tell you something as the time begins to run out. [Buzzer sounding] this is not a settlement. You are not indoctrinating people by killing black or brown people. You have the -- you need to say we have a higher standard, we're not going to leave you dry. We need to settle this case

--

Cole: Thank you, Mr. --Mr. Linder, thank you, thank you.

I almost ask for a point of privilege. But I will tell you I'm disappointed if you don't ask one question. I will get out of here wellfully. I would think as representatives, given the state in the city with black people, I would think that you have one question. Maybe I'm wrong, maybe you just want to leave this alone. Councilmember martinez.  
[05:54:55]

Martinez: I do have a question, it's not

-- you sent us an email shortly after this case, you sent the entire council an email. I was curious about that email because it says that you will file human rights violences against the city council, I believe.

City government, yes, sir.

Martinez: And so i wanted to ask you, what avenue are you pursuing to file human rights violations.

The first process is a commission that you created. Called the human rights commission. I think that i [INDISCERNIBLE] 22nd. Citing these very same situations for police brutality, lack of employment opportunities, perhaps even misuse of federal funding, why you build lady bird lake, all of these other lakes, you spend nothing in austin dealing with young people like kevin. We are going to show [indiscernible] equitable basis, going to show your commission as we go forward.

Cole: Thank you, mr. Linder.

Does that answer your question, sir.

Martinez: It does. I was trying to find the email. I thought it mentioned something about going to federal court or

--

that's the secondary option right now, but my main point today is that you guys will no longer be able to hide behind the federal courts we're going to come wherever you are and make you address the fight to ensure that the rights of all people in this city, black and brown people are protected by this police force, police chief, you are the city government, we are coming to you.

[ Applause ] are there any other questions? No other questions?

Cole: Thank you, mr. Linder, thank you. Next we have gus pena. Already at the microphone.

Councilmembers, gus pena, native east austin night. Proud native east austin night. Proud united states marine corps veteran, served with the first, third, fourth marine distinguishes, third first, third marine air wing proudly in vietnam. Councilmembers I'm going to read the items here, veterans issues and needs, housing, better treatment for veterans, we served our country and other countries for freedom, safety and democracy. We were wounded. We are still wounded. We have mental health issues, issues, we need housing, jobs, just some respect. Like aretha franklin said, respect, show me respect, please.

[05:57:21]

Cole: That's not exactly what she's said. I'm just teasing gus, go ahead.

Mayor pro tem, that's disrespectful. Don't do that again.

Cole: Kidding, I'm sorry, go ahead.

You cut in my time up.

Cole: No, I'm not. They'll give it to you, they will.

Affordable housing, i just made a presentation about lack of affordable housing, it's costing us too much to live, we're dying, lack of affordable housing, what can we tell our youth, we're going to have housing for youth, are you going to be able to purchase? Too much expensive housing here. Jobs with benefits, that goes without saying. Expand summer jobs programs for youth, I've been saying this for many years, not my FIRST, THIRD, 10th YEAR. Mentors for students in summer school, please, we need to get them educated so they can achieve scholastic evidence and achievement so they can be able to get a job. Court limits, united states oversight of voting rights. I testified at the house and the senate redistricting committees, this is a scam. This is a shame on us. We are disrespected. I'm a former discrimination complaints investigator for the feds, department of treasury and justice, I can tell you, this is highly discriminatory move by the supreme court justices. It hurts us. We are being discriminated against. Last item, last, the new v.A. Health care facilities OPENS UP JULY THE 9th.

Councilmember mike martinez we're going to need to expand it, actually cut down the time on it. It's a lengthy process to catch the bus. You're going to have more veterans going over, right near precinct 4, justice of the peace and constable facility. We need more increased ridership over there. Again, councilmembers, please, if you listen to anything that I have to say here, our people are dying. Lack of jobs. Like they said. Food, nutritious food, but also housing, we're not getting it done here, councilmembers. We need more support and again I want to -- I want to thank a lot of the senators that supported us veterans here in the city of austin, they're not even from austin. My elected officials didn't support us veterans groups. They didn't mayor pro tem. And I'll stand here by my word here they didn't support us, but people, the vietnam veterans in san antonio, the senators and reps they supported us more here in austin than they did our own elected officials, that is not acceptable to me. Thank you very much. And please jobs, jobs, jobs, affordable housing, clear cut definition of affordable housing. Thank you very much.  
[05:59:53]

Cole: Thank you, mr. Pena, sam holt. Byron carter case.

Good evening, mayor and council, for those of you who don't know me, my name is sam holt, I'm a retired a.P.D. Chief, well assistant chief after 30 years of honorable service. I came here to make some comment on the byron carter case and what I want to share with you is basically that we know the police officers don't begin their day with the intention of harming or killing anybody. But sometimes unfortunately events do occur and byron carter was one of those unfortunate events that happened. Being mindful that he was a passenger in the car, and that he had not committed any crime at that particular point, it is my belief and belief of several community members when such an event occur that the city administrators should handle the situation as an administrative issue and -- and compensate the carter family loss of byron carter. If that does not happen it displays insensitivity on the city's behalf by the city leaders and that particular insensitivity begins to erode the relationship between the police and the community. And thank you.

Cole: Thank you, mr. Holt. Phillip greene. Phillip greene. Not here? There you go, hello, in greene. 24 separate studies showing that fluoroide lowers iq. The most recent study published by harvard funded by the national institute of health states that children living in areas where highly fluoridated water have significantly lower iq. The cdc now advises against giving fluoridated water to infants and toddlers after it was revealed that 41% of american youth have dental fluorosis, 41%, the physician's desk reference states that approximately one percent of the population is allergic or hyper sensitive to fluoroide. One percent of the population, that's a lot of people here in austin.

[06:02:42]

[Indiscernible] ape classifies fluoroide as a class one hazardous waste product. That's from the e.P.A. Senior chemist at e.P.A. States [indiscernible] if this stuff gets into the air pollution, if it gets into the air it's a pollutant. If it gets into the river it's a pollutant. If it gets into a lake it's a pollutant. But if it's added directly to your water supply it's not a pollutant. That's amazing. Unquote. Under texas state code 26.001, pollution is defined as: The alteration or the contamination of any water in the state that renders the water harmful, detrimental or injurious to humans, animal life, property or impairs the usefulness or public enjoyment of the water. You are in violation of that code.

[ Applause ]

this is from the e.P.A. Based on data from the national academy of science, current levels of fluoroide exposure in drinking water may cause arthritis in a substantial portion of the population, long before they reach old age. The e.P.A. This is from the american journal of epidemiology, october of 1999, fluoride damages bone even at levels added to public drinking water. This is from jama, journal of the american medical association. Significant increase in the risk of hip fracture, both men and women, explosioned to artificial fluoridation at one part more people. Hydro florin salicylic acid is a violation of the texas state code which not only impairs the usefulness and public enjoyment of the water but unquestionably renders the water harmful to those allergic to fluoroide or subject to harmful effects like infants and toddlers. Do any of you have a comment on the addition of a chemical waste product that violates texas state code to our drinking water? Anyone have a comment?

[06:04:50]

Spelman: I have a quick question for you, sir, I have heard of all of the studies that you mentioned except for the one on the iq. Do you have a citation for it?

There are 24 separate studies. I know that many of them have been presented to the city council in the past. Most recent published by harvard, funded by the national institute of health. I do not have a link currently but I will get one to you.

Spelman: I will google it, thanks, if you can sends it to me, I would like to see the link, thanks.

Cole: Thank you, mr. Green, next will mcleod, will mcleod you have listed ted cruz for president 2016, impeaching president obama, single use bag ordinance, council ... Amendment to the u.S. Constitution.

That is a single use title 8, chapter 121, rights and responsibilities of persons with

-- with disabilities and the federal americans with disabilities act. And this one is to be determined, that to be determined topic happens to do with mr. Pena's remark about the voting rights act. The voting rights act was -- was [indiscernible] shelby county versus holder, has to do with outdated 1965 information, there was no coverup in that. If you would please roll the video.

In recent weeks the i.R.S. Admitted to unlawfully targeting groups and trying to silence the president's critics. This is wrong, a chilling abuse of power. It needs to be fully investigated and those involved must be held accountable. But we also need to make sure that it never happens again. It's time to abolish the i.R.S.: And noest enforcement of obama

-- no i.R.S. Enforcement of obama care. If I might pose a question in your response to senator cornyn, you mentioned there's some 100 pages of the bill that specify particular firearms if this bill were passed congress would have deemed prohibited. It seems to me that all of us should begin as our foundational document with the constitution and the second amendment in the bill of rights provides that the right of the people to keep and bear arms shall not be infringed. The question that I would pose to the senior senator from california would she deem it consistent with the bill of rights for congress to engage in the same endeavor that we are contemplating doing.

[06:07:25]

Senator from texas.

Madam president, the senior senior from arizona

-- urged this body to trust the republicans. Let me be clear, I don't trust the republicans. I don't trust the democrats. And I think a whole lot of americans likewise don't trust the republicans and the democrats because it is leadership in both parties that

--

this is both an ongoing matter about which I know nothing. I do not know

-- I don't know what happened. I did not know

-- I don't know. I don't know. I don't know. I don't know. I don't know, I don't have a factual basis to answer that question.

The president who opened new doors to russia and china, leaves the white house in disgrace, he resigned rather than face impeachment for ordering illegal acts.

When the president does it. That means that it is not illegal.

Such a damaging intelligence.

There was pressure from the white house from me and from the president to the committee to get their campaign intelligence activity going. [Buzzer sounding]

any questions?

THANK YOU, MR. McLEOD. Ronnie reeferseed. Love, liberty and stopping the wicked wars we are waging worldwide.

Thank you, wicked wars. Hallelujah people, yes, I'm ronnie ronnie [inhale] reeferseed grown ups who want to stress our liberty to smoke in public. We can openly share these with cops, why? This is a hand rolled tobacco

reefer, I think cheaper, than american spirit tobacco. Roll your own, public smoking of any and all reefers accelerates our war on pot smokers that we have all been suffering from for decades thank you mr. Nixon. Smoking reefers of any kind is not for kids. You can quote me, ronnie reeferseed on that. Rejoice the u.S. Supreme court did give us all victories yesterday. Doma was thrown out because the plaintiffs did not have standing. Legalese to mean we have to get the wording right. Most importantly the u.S. Court ruled in favor of states rights! That's right. The states still have the power to make our own laws about marriage, gam -- gambling whatever. Therefore I believe we are all closer to liberating ourselves from the counter productive statutes. Nixon's law on pot smokers is not more for the -- reported in lock step that the throwing out of the -- of doma conservatives lost big time. No. We'll just get the wording right. So as we get it right next time. Reeferseed, who created the united states of america. The states, centuries ago the original 13 colonies decided to unite to drive out those tie tyrannical brits. We might have to do it again, after all it is the constitution of the united states that is the supreme law of the land. That fact is not in dispute and we all need to fight hard against our enemies for and especially -- foreign and especially domestic. Does fast and furious ring a bell. How about the [06:11:07]

[indiscernible] authorization act that threatens our u.S. Constitutionally based separation of powers by giving our so-called president, so-called peace prize permission to deny due process to u.S. Citizens for any reason he wants to. Nope, that's not right. We all must unite to throw out the ndaa at the ballot box as soon as possible. Our future is in our hands, don't give up now, we are winning, grownups keep smoking reefers publicly because it's our right. Just say no to these treasonous tyrants and saying yes to liberty for all! Thank you very much.

Mayor Leffingwell: Thank you, that being cans our citizens communication. We have no executive session for today. Those items have been withdrawn. So I would suggest that we

-- that we go into recess for the purpose of having lunch and convene back here at 1:1

Mayor Leffingwell: We're out of recess. And we'll begin with item 44. We do have speakers on item 44 and we'll go to those speakers now. Reside whalely. Roy whalely. Bill bunch. You have three minutes.

Thank you mayor, members of the council, bill bunch with save our springs alliance. This item's proposed settlement of a lawsuit, as I understand it, for a tract of land about 8 acres up on the northern edward's aquifer recharge zone. So it not the barton springs zone but the northern edwards. We don't know much about it this, the backup that's been given is very, very sketchy. And so our request is that you just postpone this a little bit, give some time and transparency to this process. Some significant concerns have been expressed about this tract. And the caves and sink holes on it being

-- being particularly important and numerous. Extremely vulnerable tract of land. And we certainly support your efforts to

-- to settle disputes, but we also think there should be an opportunity for meaningful public input when you have these before you. At least on the policy side and the environmental side and of course, you know, your lawyers have to advise you on the legal part of the equation. But our request is that you just take some time, provide a little more information to the community so that we can inform you and I would at least encourage you to have your technical geology, hydrogeology staff tell you about what they know about the site. Thank you for your consideration.

[06:14:57]

Mayor Leffingwell: Soyla vague gaw.

Good afternoon, soil soyl vague gaw with the austin heritage tree foundation, i support all of the comments in a bill bunch made. I have the same concerns. The

-- it's not very clear so I don't really know what the problem would be with the heritage trees, but i ask you please do not wave the heritage tree ordinance including for administrative decisions. Please keep the

-- preserve the trees. There's also a problem with set backs being too close to the critical environmental features, again it's not clear with the backup. So provide more details and look more into it, but abide by the heritage tree ordinance, thank you.

Mayor Leffingwell: Jeff howard.

Thank you, mayor, good afternoon, councilmembers, my name is jeff howard, i represent the land owner in this case. Just a couple of quick points. This is a settlement of a lawsuit over chapter 245. It's based on a 1989 plat. That plat would not obviously the project would be grandfathered to 1989. It has a plat note on it of a 50-foot buffer around the cef. What this proposed agreement will do will obviously settle that lawsuit, eliminate any dispute about there being a 50-foot buffer around that cef. But it would go further. It would require compliance with current code. Water quality, heritage tree, commercial design standards, et cetera, et cetera. In addition, the settlement would impose a requirement that we be residential. That will reduce impervious cover by 5%, which is over 15,000 square feet. We go even further than just complying with the heritage tree ordinance. We've called out 15 separate heritage trees that we will actually preserve. So it's not like we will go through a mitigation process. Those 15 trees will actually be preserved. Then we go above and beyond what the code requires. We've agreed to steel sleeve the wastewater lines, in case we encounter voids. That will be protected. We've agreed to do innovative quarter quality controls, including biofiltration. In other words, in my view, having done a lot of these cases, I actually think the water quality result here may be better than current code. It certainly is better when you consider that you are also settling a lawsuit that your attorneys have previously advised you on. As far as additional postponement and transparency, we would be strongly against that. We have been in this process for a year and a half. We've been following your current process for settlement of these suits. If you want to change the process, I guess my request would be that you look at doing that prospectively and not to those people who are already in the process who have worked long and hard to come up with I think a result that's good for the city and good for the applicant. We would, of course, I mean we're ready to design a site plan, get it in. So a delay of a month and a half would be very, very detrimental to the project. I think at the end of the day we would just get back to where we were. With that I hope that you approve of this item. I will be happy to answer any questions that you might have.

[06:18:17]

Spelman: Mayor?

Mayor Leffingwell: Councilmember spelman, mr. Howard, we just heard from people who aren't sure whether they are for or against this because they don't have much information. I just took a look at the ordinance which is on backup. The ordinance of course says this implements the agreement. Is the agreement complete.

The agreement is ready, my clients have signed it.

You have signed it, i presume we're going to sign it. Is there any reason why that agreement cannot be made public.

I don't have a problem with it being made public. In fact I think that it's been shared with mr. Bunch, mr. Whaley.

Spelman: How long ago.

When I found out they pulled the case this afternoon, yes, I talked to them later this morning.

Spelman: Okay. Sometime this morning they actually got a copy of the agreement.

Spelman: There's no reason from your point of view why we cannot make it public. Okay. Is there any reason why we wouldn't put the agreement in the backup or someplace else on the web where other people can take a look at it?

[Indiscernible]

Spelman: Okay. Thank you.

Spelman: Mayor, I move approval of item 44.

Mayor Leffingwell: Councilmember spelman moves approval. I will second. Councilmember morrison?

Morrison: I wonder if i could ask our staff to come up. Talk a little bit from your perspective. We have heard mr. Howard's perspective on the environmental protections. I wonder if you could speak to them and but then also it's a lawsuit so I assume that we have to give in on something. If you could talk a little bit about what that might be, also.

I'll allow our attorney to talk about what we gave in on. But the discussion who been about, primarily there's a significant sink hole on the property. There's a plat note that -- that define the buffer as 50 feet. And that is not -- does not comply with current code. We think that it's a fairly high value environmental feature. There's a couple of other sink holes on the property as well. And through the negotiation, I think that we've reached a reasonable compromise and accommodation. What mr. Howard, the items that mr. Howard described are accurate. We're getting current code water quality and better than what -- than what they are choosing to use some of our green and innovative water quality methods instead of just the traditional sedimentation filtration, that's a good thing. We're preserving flow from off the site that goes towards the sink hole. We're protecting the sink hole from the potential of the wastewater line leaks with the steel sleeving and we're getting a significantly larger square footage in materials of buffering for the sink hole over the 50-foot that is in the plat note. And with the -- as mr. Howard mentioned, with the residential development, we're getting a less intense development as what they could have done. And I think that -- that this is a good proposal and a reasonable compromise. You know, as - the environmental officer and our geologist who has looked at this, we always want more. You know, you can always get better environmental protection. But I think this is a reasonable accommodation given the issues in this case.  
[06:21:37]

Morrison: What is the current code for the setback from the sinkhole like that?

I believe it's 150 feet, is that correct?

Good afternoon, I'm sylvia pope with the watershed protection. The maximum can go up to 300 feet for the buffer, so

-- so you look the a the catchment area.

Morrison: Okay. So

-- so I presume the agreement includes sort of a modified something between 50 and the modified

-- what would be under current code?

Yeah. It's

-- it's not a perfect circle. And so it

-- it's probably i think about 75 to 100 feet is what we're looking at right now.

Morrison: Okay. Then I wonder if I could ask our legal staff if you have any comments on where we compromised and what mr. Lesniak didn't want to answer?

Brent lloyd, assistant city attorney. I think that chuck lesniak and sylvia pope are best qualified to address the development terms and i think that is really what this case is mainly about. But in terms of overall, this

-- we're convinced and it's why we're recommending the settlement that this is, you know, a

-- vastly better project from an environmental standpoint, from a general code compliance standpoint than if the project were to develop under its grandfathering rights particularly with respect to the plat note. Additionally,

aside from the buffer issue. If the project were to develop as a 1999 grandfathered site, there would be no heritage tree protection. So I think as part of this agreement, although it's

-- as chuck indicated, we never get everything that we want, the city really went to the mat and tried to get terms that would make this a

-- this overall a very favorable settlement for the city.

[06:23:49]

Councilmember, the one area that I guess in terms of environmental protections that we compromised on was the buffer sites. If this was strictly a code compliant site going through a normal site plan review, we would have required a larger buffer. We think that with the additional environmental protections and the reduced density, it mitigates that to some extent. This is not the buffer that we would have liked, but

-- but, you know, obviously if we were to lose the case, we would not even get anywhere this buffer.

Morrison: Okay. Great, I think I understand we are looking at the balance of  
-- tell me if this is correct that we're looking at trading off potentially losing a lawsuit where we would be under the 50-foot buffer and old code.

That's correct.

Morrison: And on the other hand we're having

-- we're not meeting the code on the buffer but on all of the other things.

Generally in other aspects this is a current code compliant project.

Morrison: Okay.

Mayor Leffingwell: Those in favor of the motion say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 7-0. We'll go to item 45. Several speakers, roy whalely, bill bunch. Holland clark here yet? Mary arnold. So you have three minutes.

Thank you, mayor, councilmembers, bill bunch again for save our springs alliance, I would just like to correct the record on the previous item. Mr howard said he had given a copy of the agreement. That is false. He gave me a summary. That references an exhibit a that's so small and black and white it's

-- it's unintelligible.

[06:25:49]

Mayor Leffingwell: We will give you a copy, mr. Bunch, let's stick to this item.

I would hope that we would be interested in having the public record corrected. On this item you are being asked to direct the staff to go forward and work on an sos site specific amendment for two sites, on the recharge zone in the barton springs watershed, those

-- no maps are really provided for those tracts. No rationale for this is given. And given that you repealed your promise duration ordinance and opened the door for

-- for as much grandfathering as could possibly allow

-- be allowed under state law, we're not understanding this at all. If it's some threat that you feel from special session, a legislative threat? That should be laid on the table and explain to the community. None of these bills got any traction during the regular session, the first special session it was not open to the call and I can't imagine that it would be open to the call again. But your staff promised you that when you were pushed into repealing the project duration ordinance, that they were going to spend their time working on obtaining compliance with s.O.S. Here we keep going the other direction and spending more and more time exempting more development from the s.O.S. Ordinance and we're not given any real information about how we're doing that or what it means or like in the previous item you were given enough, a bunch of information but not once did they talk about well how much impervious cover under the settlement or what we're talking about versus current code. That's absolutely critical information. And staff never even volunteered it. Here we're talking at least one of the tracts is referencing a 48% impervious cover. Versus 15%. That's gross site. So we're talking about, you know, triple, quadruple impervious cover of s.O.S. Please vote no on this. Thank you for your consideration.

[06:28:31]

Mayor Leffingwell: I want to try to get an answer to your question here, mr. Bunch, from

-- from the law department on the

-- with regard to the garza tract. I believe that's a result of a court

-- court case.

That's false.

Mayor Leffingwell: Hold on, you're not called yet. You're next.

Lloyd, assistant city attorney, there certainly is a litigation history with respect to the garza tract. There was an initial settlement that was done in 2003 that was eventually declared to be invalid in travis county district court and a subsequent settlement was executed that involved save our springs and lowe's and the city of sunset valley executed in 2005. But I don't think

-- I think the item that's before you today is

-- I think mr. Budge is correct insofar as it's a separate and apart anything to do with the settlement.

Mayor Leffingwell: I had the impression that 40% was already an approved impervious cover.

I think that is correct under the terms of the prior settlement.

On a different tract.

Tovo: Mayor. I want to

-- mr.

-- Mr. [Indiscernible] I want to ask a follow-up discussion to the discussion that you just had with the mayor. It's my understanding that 40% was a result of the settlement. This would initiate code amendments to make it 48%; is that correct.

I think that's correct, i think it would include additional land area as well and I think that chuck and technical staff to the extent that your questions relate to those issues, i think they are the best suited to address that and i think they are prepared to.

Tovo: Whoever wants to address it is welcome to. The other tract was not subject to the settlement as mr. Burke stated.

[06:30:35]

That is correct.

That's correct. So what mr. Bunch stated was correct that the other tract was not involved in the lawsuit?

That's correct. The ordinance that would come back to you would add some additional land area as well as some impervious cover to what was the baseline agreement in the settlement.

Tovo: Thank you.

Mayor Leffingwell: Do you want mr. Lesniak to answer your questions?

Tovo: I think that we have an answer, if he wants to answer he's certainly welcome to.

Mayor Leffingwell: All right. Soela vega.

Austin hair tree. Same comments as before basically, I support what bill burke is saying and i ask you to

-- bill bunch is saying and I ask you to not waive the heritage tree ordinance. I get worried when I see there are going to be special conditions, please preserve the trees, heritage trees are important, thank you.

Thank you.

Mayor Leffingwell: I will entertain a motion on item 45. Councilmember morrison?

Morrison: Do we have any staff that could comment on why we're looking at the this today?

-- Why we're looking at this today?

Chuck lesniak, city environmental officer. I think this has been brought to you today. We got a request from the representatives of the garza family to increase the allowed impervious cover on their property. We got a request, a very similar request, although the

-- the framework of the other request is somewhat different. But a similar request for additional impervious cover on the encino trace property so we decided to bring those to you and one of the reasons that this is being brought to you today it's being brought to you in the context of potential concern from the legislative action that might significantly reduce our ability to implement our current development regulations. S.O.S. And other areas of the city.

[06:32:52]

Okay. And when they come back, they would be s.O.S. Variances so they would require super majorities of six votes, is that correct.

That's correct. They would be amendments to s.O.S. And would require six votes.

Morrison: If we passed this today, there's absolutely no obligation one way or another to vote one way or another when they come back; is that correct?

That's correct. Today is just a resolution directing staff to move forward with drafting a potential amendment. And we'll have, I'm sure additional discussions with garza's

-- representatives of the garza family and the representatives of the encino trace property and we'll see where we're at in august should council approve of the resolution.

Morrison: With that, mayor, I've been very circumspect about supporting s.O.S. Ordinances, it's not unheard of that I voted for one and I'm very concerned about these obviously and there's a lot of discussion to be had with the community as well as with whatever staff is going to be doing to pursue additional discussions with the property owners. So with some trepidation i would like to make a motion to approve this resolution, but obviously fully with the understanding that a lot of thought is going to have to go into it and it's going to meet a pretty high bar to be able to get six votes.

Cole: I'll second.

Mayor Leffingwell: Motion by councilmember morrison to approve item 45 and seconded by mayor pro tem cole.

Cole: I would like to ask chuck a couple more questions. We're always in a difficult situation when we're trying to strategize our environmental protections before the legislature. It's generally my understanding that we have been successful this past legislative session; is that correct.

[06:34:55]

That's correct. Our legislative team has done a really good job representating us at the legislature this session and

-- but the rules change when you get into a special session.

Cole: Have they been involved in this decision that you're bringing before us now and those strategy discussions. Yes.

Cole: So they are requesting this, to help.

This is a consensus of staff.

Cole: Okay.

Tovo: Mr. Lesniak, i think that I mentioned when we spoke yesterday that i had submitted some questions you through the q&a process, it doesn't look as though they actually appear with the q&a process, I will talk with the agenda staff about how that happened. I submitted five questions, four of which posted the questions associated with this item didn't. So for the record, these were my questions that i submitted, this item would initiate a site specific amendment to the save our springs ordinance, please indicate any other cases in which staff have initiated site specific s.O.S. Amendments. And please explain the staff's rationale for doing so in this case, which you have explained here today. And then I went to ask the resolution text did not indicate ... Or the zoning and platting commission would any amendments receive such a review. It's possible that I missed it in the q&a and it appears out of sequence or something. But the fact remains that i don't have answers. I'm going to have to ask you to go through those now. So this is pretty unusual in that amendments typically are initiated by staff by planning commission rather or by the city council. In this case this is staff submitting a resolution asking us to consider initiating a code amendment. Do you happen to know of any other cases in which we have done that? I'm not sure if we have used that exact process. But certainly the barton springs pool improvements were an s.O.S. Amendment that I believe was initiated by staff and I don't know if this was brought to you as a resolution similar to this, I'm not sure exactly what that process was. But that was certainly an example. We recently had the one world settlement agreement. Probably others in the past that we have done. Where

-- where

-- as you know

-- ordinance amendments can only be initiated by either the planning commission or council and so

-- so if there's a recommendation from staff for an ordinance amendment it either has to go through one of those two routes, so we're bringing that to you to offer you that opportunity. The one world settlement, did it initiate a code change?

[06:37:42]

It was

-- it included a site specific amendment to s.O.S.

So then the next part of my question again, you have explained the rationale for doing

-- the regulars solution text doesn't include the specific commitment that it be reviewed that any resulting amendments would be considered by the environmental board and the planning commission or the zoning and platting I assume since that's our regular process it would.

Not necessarily. It would be at the discretion of council. The intent is, I think the resolution says to bring this, the amendments back for the august 8th agenda and I think that

-- that we wouldn't be able to go through that typical process, amendment process taking it back through boards and commissions in that time frame.

I would ask the maker of the motion and the second if they would consi friendly amendment to add a review by the environmental board and the appropriate land use commission just to be up front I'm not planning on supporting the motion, but I do offer those for your consideration.

Morrison: If I could ask staff a question about this. The environmental board and

-- I'm sorry did you say planning commission? I

--

Tovo: I said planning commission or zap and then switched it to appropriate land use commission.

They meet once a month.

Environmental board twice a month. Their first meeting in july IS RIGHT BEFORE THE 4th. They have canceled that meeting. They have one meeting on the 17th.

Morrison: What about zap?

I'm not sure of their schedule. I believe they meet twice a month as well. I'm not certain of their dates.

Morrison: Sounds to me like even if you didn't have all of the t's crossed and l's dotted you could still go in front of them and talk about the intention and what the ordinance would do and still get back to us on AUGUST 8th.

[06:39:48]

We certainly could. I think that you are correct, though, we would not have a draft amendment ready to take through them at that time. I

-- it's neither

-- probably neither here nor there, but I will be out of TOWN ON THE 17th.

Morrison: So, yes, i would accept that amendment.

Cole: I will accept it.

Mayor Leffingwell: Maker and second accept the amendment to present the best you've got to the land use commission and the environmental board. All in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 6-1 councilmember tovo voting no. Item 48. Item 48 pulled for speakers, we will just start working our way through those. First speaker sharon blithe and donating time is norman kitridge here. Linda guerrero. Linda not here. So you have six minutes.

Okay. Hi. I'm sharon blithe, representing austin ramp. Just as a reminder you know that the city took over the maintenance in the administration of the city cemetery's april 1. I would like to personally thank all of the council, chris, mike, kathy, laura, bill, sheryl, the mayor, for doing this because it's made a dramatic difference in just a few weeks about what the field contractor had not been able to do for 22 years. Thank you so much. And god bless you. We will need some more money coming the next budget cycle to continue did this good process of taking care of all of our cemeteries. But now the bad news. Before on item 48 is a contract to recontract with the -- with the fill contractors for five years, plus two five year extensions which is exactly kind of the same deal that we had in 2006, a total of 15 years. This isn't working. This is what the austin memorial looked like when the contract was in there. He stored all of his equipment for austin of central texas at austin memorial and made it look like a junk yard. City auditor, two reports, he drained the cemetery of the perpetual interest fund with unsubstantiated expenses.

[06:42:49]

[Reading graphic] this is an internment that he did, subsiding grave. Another stone dislodged by his backhoe digging a grave nearby. Another subsiding grave. Another -- who would want 15 more years of this? Marker damage done by the contractor. Here's a quote from a lady who died in january, heavily involved with the cemeteries for a number of years. One only has to drive by austin memorial park cemetery to recognize the disregard for the gone but not forgotten. This is taken the day of her funeral. This is a carpet they put under the tent completely filthy with dirty boots from internment services, absolutely unacceptable. This is tree damage done by internment services at a recent burial. THIS IS A MAY 19th, AFTER April 1, internment, I was out there watched him do it. He pulled that bulldozer with that other piece of equipment across the lawn of another grave. Digging one grave on the next aisle. He pulled the bulldozer across and scraped that grave and didn't come back to fix it. Here's another picture, i have many, many other pictures. Pard will tell you it's a great price. They want to contract with them again. They told me he needs more money because now he can't illegal store his gasoline tanks or his equipment on site anymore. But we'll monitor the contract so pard says. And we'll bill him directly. But we have no guarantee once the ink is dry on that contract whether he will abide by anything because of his past bad record. Internment services, no way. Contract will not be monitored. It will take all of pard's time to be able to keep him in line. He's requesting more money that will increase over time. There's a history of bad performance. Gene was paid 69,000 by pard department and he should not have been because it should have been covered in his previous contract. I believe he owes that money back to the city. Gene is not here in austin to supervise his men daily so they can do what they want to do on any given day much internment services is gene bagwell the same owner-operator that the city contracted in 1990 who ran the cemeteries into the ground. The city auditor wrote them up twice. And no prudent person would contract with this company for five years with two five-year extensions. For a total of 15 years. I'm here to ask you to please consider reducing the term of the contract to three years, two or three years, to give him a probationary period and at that time resolicit the contract because there are -- there was another bidder that is a national firm that would very well be able to do this, they do -- they do numerous dates, numerous cities in texas, right up here in engineer jarrell texas, they have the equipment, they have the know-how they should be given another opportunity. They were thrown out because they didn't fill out one form, a subcontracting form and the purchasing could have worked with them. So I don't want to see things go the other way rather than forward. We're very, very concerned about this contract. It's just not good business practice for the city to recontract with a person who has such a long track history of bad public will and poor performance. And finally, I would like to say that the contractor in the city auditor report, the second one, I believe, and i also found that the contractor falsified government documents by certifying to the parks department they had watered oak wood and oak wood

[06:46:50]

[indiscernible] cemeteries, the city auditor and I also verified it. The city water utility bill shows zero water used at those two cemeteries when he asserted that he was watering over there. So I think that in itself is grounds for disqualification, please deny this contract. Thanks.

Mayor Leffingwell: Next speaker is joseph norman. Joseph norman. Joan culver. Joan culver. Bob anderson. Bob anderson.

Hey, city council, I'm bob anderson. I'm the warehouse manager for sei funeral services in jarrell, texas. We've been up there since '95 or 2005. We were in austin since '99. My company is prepared to renegotiate, to get the paperwork done and all

-- we are certified. We're bonded. I've been doing this work for

-- well, since I was 16 years old. So this is nothing new to me. We will do a good job for you if you ask us. And if there's any questions, I can try to answer them as best I can.

Riley: Mayor?

Mayor Leffingwell: Councilmember riley.

Riley: Mr. Anderson thank you for being here today. I have a question for you, term on this contract is five years, with the possibility of two five year extensions. Is this typical? There's been some suggestion perhaps we should consider a shorter term given the history of some issues with the internment services and so I'm wondering if we were to shorten the contract to say three years, is it

-- do you believe that we would still interest on the part of providers out there? Even with a shortened time period?  
[06:49:17]

I think you will.

Riley: Is there any industry standard for a term on this sort of contract?

No. Usually it's probably a one-year contract that's renewable. But three years, you would -- you would have more interest. People interested.

Riley: One issue that we have here is that this appears to be the only qualified respondent at this point. Do you have any sense as to why we wouldn't have seen more respondents from others given this request?

It's under the terms of it and the equipment that you have to come up with and the

-- just the equipment and stuff. The volume of money coming in. That you would have to have to take over the business. It would be -- substantial.

Riley: So the terms of the

-- of our fee, with whatever it was, in terms of the procurement required respondents to have

-- to have equipment that

-- that really limited the pool of potential respondents. Is that

--

yes.

Okay. I understand.

Okay. Thanks for your input on this.

Yes.

Mayor Leffingwell: Okay. James blithe. [One moment please for change in captioners] james belate, kathryn bullock. Cath lynn bullock. Zoila vega. How did gene kittridge here. David king. So you have up to nine minutes. [One moment please for change in captioners]

[06:51:40]

we mentioned this this morning in a meeting and the answer is gene bagwell does not want to do it. Since the contract came for renewal, an all of stakeholders have been providing input and we give it here and the parks department and the parks department says, well, gene bagwell does not want to do it. So in addition to that we have proof of the poor performance through two city audits and many public inputs and the stake to the grounds. It's not the city policy to hire contractors that perform so badly so why do we opinion to go this. You have on the screen and i give at a handout is the matrix provided from purchasing. They say there was only one supplier

-- only one supplier

-- the best proposal, not a one. So far industries which is ai industries, the previous speaker, was not considered.

They were disqualified

-- let's see, how do I

-- they were disqualified based on the paperwork. This did not submit a compliance plan and submission of the price proposal as purchasing. And the decision was made on the minorities, the city requirements. I know that it has been explained to me by the parks department staff that the reason [indiscernible] is because they did not meet the city's minorities requirement. So purchasing could have worked with them to try to meet those requirements considering that the alternative is so bad, but they didn't do it because they don't do that. So that's a problem with purchasing. We talked to the parks department this morning and they said, well, we cannot tell purchasing what to do. If they decide that, then that's their decision.

[06:53:42]

[Indiscernible] in this industry, 17 years, they are a large company, they are very experienced, they have quality services. 17 locations and they have minorities

-- 70 years experience. Plus the minorities in this industry from the workers. So I cannot believe that they do not meet the minority requirements. What is the problem? City council and stakeholders have not reviewed the contract. [Indiscernible] with a contractor that has such bad performance, you need to make sure they have enforcement. They spent two years saying he's doing bad work, he should be fired, and the answer was city legal says he cannot be fired because the contract terms were so vague. But there is something about bad faith or good faith. You cannot specify every single thing in the contract. And this has been proven with city audits and so on. These are older pictures from about two years ago. And I'm showing them to show you the problems with burials. The other argument is, well, they've just been doing the little part of burials. The burials is not a little part and they caused a lot of damage doing burials before. Burials mean they have to dig the hole [indiscernible] they have

-- and then they close the grave and the grounds. This is what they did before. The middle plaque has been in the corner because of the tractor. The sinking graves. They are supposed to be leveled. They were supposed to be leveled before. This marks that much on the grounds. It's a tractor going through a grave. As the tractor went and damaged all the stones and more stones, and look at the damage on the ground to go to the new grave. They go to a new grave, they continue to damage stones. They bury them almost completely. And then you see those spoils on the grave on the back left over from the grave on the front. It just stays there. Those soils, large amounts of soils. When you deal with a cemetery, you are dealing with the human factor, the emotional factor. When people have to go to a cemetery to bury somebody, it's a really bad time in their life. There's no reason to add all this stress in bad moments because of a bad contractor. This was years ago so now the parks department took over the grounds and in two months there's been incredible improvement. The grass is mowed, there's weedeating, there's markers, things that inter care state cannot be done. The parks department says we're going to watch them. My understanding the parks department doesn't have staff and services. Why do you hire a contractor you are going to have to baby and watch all the time when you have a possibility of hiring somebody else like si. Si is ready to give another try. Maybe it's a short-term contract could be extended and maybe if inter care

-- there's a whole lot of solutions. Why do we have to go back to the same contractor that caused so much pain. Because he's causing pain on people and that has to be stopped. Thank you.

[06:57:27]

Mayor Leffingwell: That's all the speakers that we have. I'll entertain a motion on item 48. Councilmember Riley.

Riley: I would like to ask a few questions of staff, if I could.

Good afternoon, city council, mayor. Jesse Vargas, assistant parks and recreation.

Riley: Jesse, you've heard the concerns people have expressed about the entity that has proposed to be awarded this contract. And I've heard similar concerns from everyone who has weighed in on this. I've got a number of responses. Basic everybody who is keeping an eye on these services and has taken the time to speak out has pointed to a history of issues with this provider and has strongly encouraged us not to move forward or to put significant restrictions on if we do move forward with this provider. I understand that our options here are limited because there's no other provider to choose from at this point. So I wanted to see what

-- what would

-- if you could expound on what other

-- what alternatives there might be. For instance, if we were to say that we would like to start over with a new procurement, perhaps with a shorter time period, something less than five years, and see if we could do any better in reaching out to other entities that could provide this sort of service and figure out if there's some other way of addressing the issues about equipment that would be required on the part of any responding entities. If we were to do something like that, then it seems like there might be some potential of getting it

-- of having more options of entities to choose from. I understand that in the short term we would have to figure out who is going to be providing these sorts of services in the next few months during the pendency of that procurement. So could you just address that issue, what the problem might be, are there solutions to it and what you

-- how do you see the prospects for getting a wider array of respondents that we could potentially award this contract to.  
[07:00:00]

First of all, I would like to say that we recognize the sensitivity of the topic at hand. It's a topic that affects all of us whether we like to admit it or not, all of us will pass one day and we'll be faced with this reality within our families as well. In terms of the purchasing options that we might have here moving forward procuring a different set of bidders, I would have to defer to byron in purchasing and he's present and willing to answer those questions. I will say as a quick aside, the three-month transition period under which we've been operating is for that very reason so we could explore our different options and we've arrived at this point, at this hybrid solution whereby we're proposing parks and recreation assume and take responsibility for which is what we know best which is green infrastructure and contracting out to interment services for specialized expert ease. I'll defer to byron on that point.

Riley: Okay.

Mayor and council, byron johnson, purchasing office. Let's talk about a couple of your questions. The first one what options do you have before you today. Obviously you can reject any and all bids and we would do readvertisement with a solicitation. You could award the contract as presented. You could award the contract without the options and do it as a five year. The option to do a 36-month contract unfortunately is no there. One of the reasons that the gentleman spoke earlier, when you look at the shorter period and you look at 36 months, you've got to amortize costs and have the costs broken down. The costs are going to be higher now than the old contract because we're requiring a lot more things. We don't want their equipment on site, we don't want the graves to look the way they do, so there's a lot more that the contractor is expected to do. The other question you asked if I understand is what would we do in the interim. We have talked to the company. They have declined to continue their temporary contract. What we would have to do is we would have to see if any companies would be interested in doing it for a short period of time. We work pretty hard, parks and purchasing contacted over 200 companies trying to get some interest and we just

-- we couldn't find people doing it. There's a limited number of people out there. There is a limited number of different burials and those types of things that are available to get that income back into them. So we would have to do an emergency contract. What we would have to do is see if we could find somebody to do it on an emergency basis and then come back with ratification to council at a point in the future to cover whatever work we need to do after the end of july. So that's kind of where we are with the options. Does that answer your question?

[07:03:10]

Riley: Let's talk about that last part, about the immediate future with some provider who could step in for another three months while we go through another procurement process. Would that need to be somebody who already has the sorts of equipment required for this or is there any equipment on site or in the area that might be available to a provide

-- to a service provider who doesn't necessarily have the equipment?

I would assume what they would do is rental. The parks department doesn't have that equipment and the contracts that we have for rentals that we would provide do not allow outside companies to use our equipment. So they couldn't use our equipment that we would rent and we don't have existing equipment that we could parse out to them. They would either have to have their own equipment or they would have to enter into rental contracts to be able to get that equipment. We don't know what the cost would be.

Riley: We believe that sort of equipment is available locally for rental?

Yes, we've already sourced that out and we already have that available that we looked at for

-- in case there was an emergency basis.

Riley: So if the equipment is available locally on a short-term basis for rental, then it seems like it's likely that we could find somebody who could step in on a temporary basis to provide those services over the next few months.

We haven't found anybody yet, but, again, the gentleman that spoke today sounded like he might be interested. We can't tell you until we actually have a need and then we would go out and see what we could do. But the existing company, interment services, was not interested in extending their contract.

Riley: Their contract terminates when?

The end of July. We would need coverage for about six months while we do a new procurement, while we go through a selection process and bring a new award back to you.

Riley: The one provider that spoke here today indicated that he would

-- that as far as he knows there is no particular industry standard for the term of a contract and he thought even a one-year contract, that most folks providing these services are used to seeing terms of as short as a year. Is there any way that we could do

-- if we rebid all this, is there any way that we could offer

-- issue an r.F.P. That contains flexibility for the respondent to propose alternate periods just in case there is someone out there willing to do it for a shorter period and that way we could see what different options there might be for different time periods?

[07:05:48]

Yes, we could.

Riley: So we could provide that flexibility in case there is someone who could do it on a short

--

if you were going to do that, what we would recommend is we have pricing based upon the different terms. So you could see what's it going to cost to go to a one-year contract, a three-year or five year and council could weigh those options when the award comes up.

Riley: Do they have estimates of the kind of costs we're talking about? For instance, the cost of a temporary contract for the next six months on a monthly basis, how that would compare with the costs we're talking about that are on the table with this contract?

We don't.

Riley: There's no way to know.

No, that's not something parks or us have looked at. We would have to have an interest. If we're going out to somebody to ask to do a cost estimate, we have to have a realistic expectation we're going to do a contract with them because it's going to require effort on their part to source equipment, and the staffing levels. We currently are looking at those pieces that are interment burial so we have contracts we're working on for landscaping and custodial that will be separate from this service.

Riley: Is there something unusual about our equipment requirements as compared to other cities who procure these services? Were we requesting any

-- any unusual sort of equipment?

We're kind of a unique area. I don't think you find very many parks that have cemeteries.

Sara Hensley, director of parks and recreation. Having worked in other cities, interesting enough not active cemeteries. There are cemeteries that parks departments are over most of the time that are nonactive meaning not burying, but we are responsible for the grounds, the green infrastructure. In this case we're responsible for the infrastructure and also making sure the interments occur. We have space available and still selling plots. That's the interesting issue for us. It's not just about maintaining the property, it's about active burials and selling the plots to allow people to still be able to bury their family members and their loved ones.

[07:08:05]

Riley: Sara, you've seen the same pictures we've seen and those seem to provide a reasonable basis for some worry about the performance of this contractor. Do you feel that those concerns are well founded?

You know, I will say in all due respect, and I thank Sharon for her kind compliments and I agree staff has done a tremendous job. Certainly I concern and it's been a concern all along and that's why we are where we are today. This is one little

-- not little, one important piece of what the cemetery operations do, but it's one part that short of us taking that over, which as a professional I would not recommend, that we have to allow an expert to do that. Interments, disinterments, this is a phi fight business. Grave markers, grave leveling, these are all things that we could do, don't get me wrong, and we could do well if we had the time to train and prepare, but the big issue is buying the equipment or renting the equipment, setting up procedures and protocol, ensuring the public gets a proper burial and it's satisfying and that et cetera done in a way where the best product is done. In this case everything they are saying is of concern. No doubt. There's no doubt whatsoever. However, we have come so far from as a department in holding and doing the right thing and doing the due diligence and making sure that we want to ensure this is a good place that is well kept and taken care of that we feel that we can monitor a contract however stipulations you want to put on it, the parks board said come back in 18 months and review. If it's not the going well, let's end it. But letting us be able to continue to bury. My big concern is if we don't have burial services there will be a gap. As you heard byron say, one was noncompliant. We have one more month left on this contract temporary and then they are left without the services for burial. Could we go without that? I guess we could. We could say we're not going to bury with an emergency contract if we can find someone. Let me caution you. The cost of that, I worry about the cost would be exponential because it is an emergency situation and they can charge the amount they need. So today I'm standing before you telling you and I think staff would tell you too i wish I could stand up here and tell you there was better options, but I think what the parks and recreation board was a good step in the right direction and that is an 18-month quality review that says if it's not working let's reevaluate and let's not continue or let's stop and start looking at some other option versus not having an option at all.

[07:11:01]

Riley: And the terms of the contract on the table do allow for that, for 18-month review?

That would be us. Quite frankly, we're going to do earlier than 18 month review. We have measures in place and as we would negotiate that would hold the business more accountable. And I take full responsibility for that, quite frankly. It's our responsibility to ensure that this business is done in the correct manner.

Riley: And you have heard at least one of the speakers raise questions about how well

-- about our track record at monitoring and enforcing. What could you say to provide any better assurance we will do a better job than in the past?

What sharon said is valid. I'm not going to disrespect that at all. She was kind enough to compliment us, give us a chance to prove ourselves in holding this contract accountable and if we find there are problems, and I'm going to hold staff accountable, we will come back ourselves and say it's not working and we've got to find another alternative.

Mayor Leffingwell: So it seems to me that we are really in a bind here, but the contract does have provisions for if the work is not adequate, even though it's a 60-month contract, you could terminate that contract. I think the alternative of if you can find somebody

-- I don't know how these charges work. I would assume that the user has to pay the interment fee. Is that right? So potentially we're passing on additional huge costs to somebody, you are already in a [indiscernible] solution when people are not in a mood to shop around or try to get the lowest bid or anything like that. I think we run the risk of imposing a terrible burden over the most vulnerable among us at their most vulnerable time and I think we have the approve this contract, the 60-month, perhaps without the options, and emphasize that you've got to redouble your efforts on monitoring quality control out there.

[07:13:16]

And I'll take full responsibility.

Mayor Leffingwell: Right. Councilmember tovo.

Tovo: I'm sorry to not have fully understood the back and forth about the contract terms. Why couldn't we approve a two-year contract here today or a three-year contract? Are we not legally posted or is it

-- what would be the challenge with doing that? Beyond the equipment that a new company

--

they didn't offer us that option. This was a proposal. And they submitted a proposal response to what we asked for. We asked for what time periods, we asked for them to indicate those and they have said that they can't do the costs break down over a period of time less than what they offered, which was a five-year. That's the minimum contract that they would do. They did not offer a three, two or one.

Tovo: Thank you for clarifying that. Obviously that company already has the equipment so I didn't understand that they refused to enter into a contract less than five years.

That's correct.

Tovo: So if we could talk for a minute about this 18-month review, the city absolutely has the right to walk away if there are any concerns about

--

I won't get look the law issue. We'll let the attorneys go through some of that. Let me tell you some of the terms and conditions. Part of what has happened over the last three years is we've work with the law department and they've been really good about helping us clarifying all the materials and conditions. So it's very clear if they are noncompliant, they don't perform, we're going to call the contract and we'll find a cure and a cause for doing that. We haven't

-- we can terminate for convenience at any time, but as the law department will tell you, there could be a cost associated with terminating for convenience. But there's a lot stronger measures that they must perform. There are standards that are out there and they have milestones that they will have to do in order to be paid for the work that they are doing and to continue with the contract, and that happens on an ongoing basis. As you heard sara, she is committed there are people intent to be watching this contract very closely.

[07:15:36]

Tovo: I appreciate that. I guess I wish that we didn't have to take action today and you could go back and say, you know, the strong sentiment of the council, if it is the strong sentiment of the council, is for a shorter contract and work from there, but it sounds as if it's coming to us too late to have any kind of option for postponing if the contract is up at the end of july.

The option would be as emergency contract basis as explained to councilmember riley.

Tovo: And I'll just say thanks to those of you in the audience, sharon and others who have worked so hard to make sure these issues are raised to council's attention and working with staff. I think it gives me pause to move forward with this with a 60-month contract and i would not support the options at this point. I think we ought to do the minimum, the minimum that is rational and I agree with the mayor that it doesn't sound like we have many other options. We need to ensure there are burial services for the folks who will need them in the months ahead. The discussion about costs, while there may be some additional costs that are reasonable, I'm not at all comfortable with the assertion that the contractor is incurring additional costs to make sure that

-- that they are not damaging stones. Some of the things that the folks here today have pointed out and have showed photos of are just what we would come to expect in any contract. Contract. I don't want anybody to leave with the impression we're upping the costs so

--

that's part of the job. As a review of the work, we go through do a checkoff. If it's not compliant and doesn't meet the high standards they are setting they get back and they don't get paid until it's done right.

Tovo: Thank you very much, dr. Hensley.

[07:17:38]

Mayor Leffingwell: Councilmember spelman.

Spelman: Thank you, mayor. There are lots of cemeteries all over the world, there are lots of people who do this. I think byron mentioned there's something like 200 companies who expressed at least some initial interest in our r.F.P. I just went on line a minute ago and found 115 companies in one small section of the web that did this sort of thing for a living. Why did we only get one who responded to our r.F.P. Who was compliant? Somethi about

the need for equipment. On the other hand, everybody needs equipment if they are going to be digging graves. That's not peculiar to us.

And I'll let Sara help about some of the answer because they've looked at this issue also. There's a couple of issues. One is this the only the piece they are doing is interment, burial, they don't own the land. When you look at some of the other companies where they have private cemeteries, maybe they have other services that they do, they have other things that they bill for, maybe there's long-term costs that they get so we're very specific, you only get paid for the interment, burial, one-time charge, that's it. They've got to roll all of their costs into doing this. Unfortunately we got the respondent and the

-- we thought we had three more that potentially

-- there just isn't the volume there for some of the bigger companies, Service Corp. International, some of those, they weren't interested plus they don't own the property. We own the property and we have restrictions that Sara can get into as to what happens with the grave sites are there.

Spelman THINK That's where I thought you would go. We have a small cemetery, do not require a lot of burials, therefore big companies would not be interested because they would have to bring their equipment down but not doing enough burials for it to be worth their while. Is there some way we can

-- I'm not sure the right way to put this, but is there some way we can congregate with other cemeteries so we can all have a joint contract and make it worth their while to come down and service both us and San Marcos or Round Rock or us and some private cemetery?

[07:20:10]

I have no clue. Sorry. That's really

-- we don't know any other city agencies and the private companies that have cemeteries generally don't have agreements with cities just because we contract very specifically. We have some indemnification, as the law department would say we like things our way and they don't like our ways.

Spelman: In this particular sector of the world maybe we need to like things their way a little bit because we're not getting any bidders.

Councilmember, that's a very good question and I think it's something that we haven't looked at, quite frankly, to partner up or congregate with the other. I do know there are differences in standards and they do have the land. They buy and purchase the land themselves and sell their plots and they do the whole gamut from soup to nuts, you know, helping them decide what they want, the whole nine yards. We are a very interesting model. I don't know what else to say. And I think this is one thing I just have to point out is that we work so hard with our stakeholders really trying to listen to them when we went through this whole mess about the contract and the things that you saw there on the screen. To really fine tune this so say you are right, we need to raise the goal and the standards, we need to be out there and maintain this property better. This is why the parks and recreation department is now taking over and mowing and doing all those things and all that costs a little more as you know because you arrived that money. This is an additional thing we also heard from them is they want a better service, they want it to be clean and cleaned up properly and more proactive. Sharon talked to me the other night, it needs to be proactive, not reactive. To do that, that's more money, and in this case I can't speak to the issue of why we only had two possible bids and then one that did not complete something and was no longer valid, but I can tell you that this is what we have at this time and my only recourse is to promise to you to hold them as accountable as possible and to do the right thing.

[07:22:23]

Spelman: I understand that and I think what Councilmember Riley was pursuing down the same rabbit trail. You are going to be watching them closely for 18 months, at the end of 18 months, Sharon is going to come back and say they are screwing up as badly as before and you will be doing the best you can and probably the contractor is going to be doing the best he can. The contractor is probably not

-- it's unlikely to be doing much different over the next 18 months, and we need competition. There's a the look of people who know how to do this but for some reason they are not interested in working with us. In 18 months

if we have figured out what we need to do to be more attractive to other bidders whether it's broaden the scale of services so they are able to do more burials because they are doing burials here and also with private companies also located in austin or whether we're broadening the scope of services so they are able to make money through mowing the lawn or watering it, there's something we can do over the next 18 months to provide for better competition, then I think we may be able to get ourselves out of this.

To help answer your question, we were just talking among ourselves. When you look at the small independent type of cemeteries, which this would be about that type of size, there are really two companies in central texas. Only two that do that and so there's not much competition. It's not a niche out there. Some of the bigger companies don't do that with the smaller cemeteries that they don't own. We would love to have them be interested, but again we would have to find some way to be able to either limit their equipment or find something else. And we did bid it with all the other pieces as an option. We said we would love to have you do the whole thing, because kuwait frankly parks would like one contractor

-- quite frankly parks would like one contractor and it's kind of a pain to do the for a cuss towed a custodian for one or two restrooms. You get the landscaping, that's not full-time basis. So you've got to have other things. Parks has other places they can use them. If you don't have another cemetery close you have to haul the equipment and that's why the cost is

--

[07:24:55]

Spelman: You see my frustration. Every few months or years we have the same conversation and we never seem to be getting out of this. We only have the one bidder ander telling me there's really nothing we can do about it except put up with it.

We can go back out again. We can try to get interest. We're just not finding the people and we worked really hard.

Spelman: I understand. And it's not a matter of

-- you can contact everybody in the country who does this stuff and if there is something we're doing which is making us particularly unattractive, and you are suggesting you kind of know what those things are, before we go out the next time which I suspect might be in 18 months, if there is something else to make us attract to bidders we might get a higher level of competition. I would encourage you to see if there is anything you could do to make us look more like the average cemetery so the people who bid on this all the time will bid on us.

We'll do that. I'm committed to doing everything we possibly can. It's not our goal to have this problem. It's very frustrating for us.

Mayor Leffingwell: Anybody want to make a motion? Councilmember morrison?

Morrison: No, but I do have a question. Just so I can get clear, after 18 months in the review is not satisfactory we can terminate.

We're going to do everything we can to uphold the standards and do the right thing. If we find that's not the case and it's not work, i would be the first one standing before you to say it not working.

Morrison: And the standards that we do have and the measures that are going to be there, can you just briefly summarize what those are? I understand there's a deal

--

in contract negotiation and I can't go reading through that, but I will tell you the staff we've been working on this and we're still not through. We are still trying to finalize different points on this.

[07:27:00]

Morrison: I just want to get real clear that they address the main points at a minimum that we're hearing about. Good afternoon, gilbert hernandez, cemetery manager. One of the things we acknowledged is we need to be more cognizant how our contractor does a particular aspect. And initiate both pre-and post-inspection processes so we're find full what the site looked like prior as well as afterwards. That's the most important part we as staff get a sense of services provided to the public and we address the issues the public have raised regarding how the

contractor performs and really how he performs his business going forward with enhanced and updated standards. WE HAVE NEW SOPs THAT HAVE Been drafted that are quantitative that define, for instance, the timeliness of when the contractor and his equipment and teams need to be on site. The length of duration, the proximity to adjacent graves, how quickly the sites are brought back to their original condition after service is held. We're much more mindful of these issues and have developed the standards to address the concerns of council.

Morrison: For instance, the recessed graves that we saw, is there some opportunity to go back -- i assume that takes some time. Are they on the hook then for that quality even after a certain amount of time? We actually share that responsibility with the contractor. The interment services is responsible for leave the site in a certain condition. After a couple of weeks we go back and make sure there has not been a depression or sinking of the grave. And soon thereafter we actually plant sod and vegetate the site. So we have a schedule and we have a structure that we've initiated to address these issues. We think that we've got a much better handle on the interment process now than we did in march when the contractor was still there and hopefully the next photos that the public brings to you will be some more -- much better pictures of how aggressive we are of improving the conditions.  
[07:29:01]

Morrison: I hope so. Just to get one other thing clear, so the city will be inspecting every single burial. Is that what I heard?

That's correct. Pre and post. We go in a take a look at what the site was like before, city council was wise enough to hire staff and we have a number of temperatures dedicated to do just that. We have a much aggressive presence on site now and this is just one component of what we do now.

Mayor Leffingwell: Councilmember riley.

Riley: I wanted to ask one more question about equipment. I think I heard the city may have some equipment that could be used for this service but we're not able to make it to private providers? Was that the case? Does the city have the equipment that could be used for this sort of work?

This contract is for interment and burial services. We don't have any of those pieces of equipment, the square cutters and that. When he was talking about other equipment we have, that's mowing equipment, landscaping equipment, those types of pieces that aren't in this con.

Riley: I see.

In case we had to do something, we went out and got rental contracts that could rent the equipment to us, but we don't own any of that equipment because we haven't had to in the past and we don't have the budgeted funds to do that.

Riley: Okay. I understand. Mayor, I guess at this point I would be prepared reluctantly to make a motion to approve the contract but with the following provisions: That any renewals would need -- would be subject to council approval. There could be no administrative renewal. So if we are going the renew the contract, that would have to be brought back for council approval. We would do a review at the 18-month point as suggested by the parks board, and in the meantime there would be ongoing assessment of the work that's being done, periodic reports to the parks board or the land and facilities committee or whichever is the appropriate facility and that will provide frequent updates and so we would have ongoing monitoring under the terms staff has described. We would have an opportunity to terminate the contract at 18 months and council would review the whole thing after five years. And I would also add that i hope that certainly over the next 18 months and hopefully sooner that staff could continue exploring other alternatives and that would mean looking at peer cities to see how they handle situations, potentially checking with our small business development program or workforce development providers to see if there might be some way that we could generate interest for small local businesses that might be able to step up and fulfill this sort of responsibility in the future. Any other creative solutions that might provide for options for this sort of service in the future. That's about the best I can do under the circumstances. I want the community to understand that we take these concerns very seriously and I'm glad to hear that the parks department is taking them very seriously now. Based on what I've heard i assume we'll have continued monitoring, frequent reports to the parks department as well as review at the 18-month point, and my hope is if we get to that point and find the work is not satisfactory, I would be fully

prepared if we see a continuation of the kind of work I saw today, I would be fully to support termination of the contract so we could go with some other that hopefully will be identified in the interim.  
[07:32:58]

Mayor Leffingwell: Motion by councilmember riley to approve with lengthy additional direction. Seconded by councilmember spelman. Any further discussion? All in favor say aye. Aye. Opposed say no. Passes on a vote of 7-0. Let's go to item 52. And this was pulled for speakers. We'll go right to speakers. Lynette cooper. You have three minutes.

Mayor, members of the council, my name is lynetta cooper to speak on item 52 which is a contract with -- that essentially extends a contract that doesn't terminate right now until four years hence so they are adding six years. I'm not here to speak so much against the process about the process of approving this contract because it is an important issue. It involves the smart grid. In the handout I've given you, page 2 is a handout that austin energy distributed via the media when they first led out the ams and page 1 blandis is the one implementing this process and I circle where will they say and they say our meter readings will plummet. If you look at the next two pages, this is information received from the austin energy rate case and those costs did not plummet, they increased faster than if we were still hiring a person to go and hand read those meters. So not only is that a contradiction to assurance that austin energy provided its ratepayers in this media insert, but it is not consistent with common sense. Automation does not increase costs, it decreases costs. More over, it is inconsistent with meter reading costs at the p.u.c. Where costs have been coming down. As the information shows, austin energy performed a cost benefit analysis in 2007 that addressed this issue. What was wrong with that analysis? Why wasn't another one performed before deciding to extend this contract another six years? Why are residential consumers concerned? We bear 80 to 90% of these costs. So whenever a purchase of this magnitude comes in, it's the residential consumers through our rates, which is about a dollar a month is the impacted of this contract, a dollar a month per residential consumer. Now, in addition I have provided you on page 4 a set of public policy questions that really should be addressed. I won't go into all of them right now, I'm just going to mention a couple. Does this contract address economies of scope? Specifically has consideration been given for our water utility to install smart meters over the next 10 years? This also has not been addressed to date. And consumers would certainly not appreciate even higher costs incurred because this contingency was not addressed in this 10-year contract commitment. Lastly I'm guessing that austin energy intends on the replace the current smart meters with smart meters that will have more capability such as remote disconnect or reconnection. But how -- how is the timing gooding to occur?  
[07:36:39]

[Buzzer sounding] customer cares policy is disconnect all utilities so we're still going to be rolling a truck. There's not going to be any savings there. We need to be looking at

--

Mayor Leffingwell: That's your time. Councilmember tovo.

Tovo: Did you have another concern?

The smart grid is much discussed about by this council but little examined by either the euc or the council. Ams is so important that the puc did not grant recovery until a deployment plan was in place and approved by the commission. The puc is also required monitoring reports of the ams deployment. I'm asking the council to require austin energy to answer the questions set out in my memo setting out the public policy questions and, more importantly, that the council monitor in its newly created city committee the smart grid to ensure austin energy's implementation is practical, takes into consideration our other departments' potential uses of the system, is affordable, that goes with when we should be doing it, at what time, and ensures flexibility in our planning. That we don't tie ourselves into our infrastructure where we are limited to one widget instead of many that may be out in the market.

Mayor Leffingwell: Carol bericky. Is ruby rowa here? You have up to six minutes.

Good afternoon. I'm with Texas Rose which stands for ratepayers organization to save energy. I was at the meeting on Monday and I saw this item and it reminded me of a day when I was on a radio program with a hot shot announcer. And there was an issue that we were discussing and the whole way through this interview he kept saying something like \$60 million? Wow, that's a lot of money. And that phrase was going through my mind as I was sitting at the meeting because I thought holy cow, \$60 million is a lot of money. And what had me concerned is when I looked at the backup, I mean you got five paragraphs of information. And I just don't see where those five paragraphs support a contract that's really a lot of money. It's also sole source. It claims in the backup information that this is proprietary information, but it doesn't explain why it's proprietary or why it needs to be proprietary and why there might not be a way that we could accomplish whatever objectives we have, which is my other issue is that at this point we don't know exactly what this money is going to be used for. There's not even a simple budget in here to show how the funds will be expended, whether they will be used for personnel or equipment, how much will go to overhead, subcontracting, I mean to me that's just basic information that should be provided. And we have no cost benefit analysis. We don't really know whether this is going to save us money or not. And I look at all the needs that are out there for weatherization and energy efficiency in middle-income homes, and I see this \$60 million and I think what are we going to get for this and is it really necessary, and I don't think that case has been made by Austin Energy. Now, I don't know if we have a long-range Ams plan or not. If we do have one it's a secret because nobody has seemed to produce it in this process. So is this \$60 million contract, does this cover the cost of everything that we're going to do with Ams or is this a part of it? And what part of it does it represent and how much more are we going to have so add on to this over time. Since it is proprietary, if we decide three or four years from now that maybe this is not the way we really want to go, do we have an option for changing our minds and taking another course of action. So we deserve a lot more information than what we've gone given here. And my understanding is there is a contract that's currently in place that has four more years on it and this continues that contract and expands it and we just really haven't gotten a very good explanation as to why that's necessary. So I think we need a plan, we need to identify like why this advanced metering system is necessary, what's it going to do, who is it going to serve. There's always speculation that people want to do time of use metering, that we have PV system, rooftop systems where people are being compensated for energy use and they may need a more sophisticated meter. If that's the case, fine, but if we can just look at a plan where we provide those to customers and see if it's really necessary to expand this out to all customers on the system. Another question that came to my mind while I was here today that I don't have in my notes is how does this tie in with the billing system. You know, advanced metering has a lot to do with billing and it would seem in this original contract that we have with IBM that some of the functions to tie into the metering system maybe should have been, you know, covered in that. So I believe that all the options need to be explored. I emailed you earlier this week a report that was done by the National Consumer Law Center and AARP and the National Association of State and Utility Consumers Advocates and Consumers Union and Public Citizens, and this report concludes that there are seven important customer protections that have to be looked at in any advanced metering system, and I copied that page for you and I only highlighted two of them at this point because this is where I think we are here in Austin. That our metering proposals have to be cost effective and that you have to have a cost benefit analysis and you have to have evidence of the fact that this is going to produce a return for the consumer. The second thing is the investments have to be verifiable and they have to be transparent, and at this point, you know, I don't even see a list of what this money is going to be spent on so we can even go back later and, you know, verify it. So I think these two elements are missing from this \$60 million proposal, which is a lot of money, and I would like to see you not vote on this today or vote no because these elements

--

[07:44:25]

[buzzer sounding]

-- need to be included. Thank you.

Cole: Thank you, Carol. Barbara Day.

Good afternoon, Council. Barbara Day. I'm here as a citizen and Carol is a very hard act to follow because she covered everything. Very completely. And I wholeheartedly endorse everything that she's asked you to do. This is a lot of money and this is a very minimal amount of backup. It not sufficient for the amount of money that's being

requested and I would ask that you not approve this today. You don't necessarily have to turn it down. You could simply send it back and ask for the detail that's necessary to support this. A couple of things in addition to what Carol has already pointed out to you, I took the extra step of calling one of the EUC members once I saw that they had unanimously approved this and what's this for, how come, \$60 million, we use put in smart meters within the last four or five years. Why are we doing this again or what's different about this. And the answer was fairly shocking because the answer I got from that member, at least, was that, well, those one-way meters were out of date when we put them in and those shouldn't have been put in. So from that perspective, at least one member of the EUC thought that this was for additional equipment. Now, reading these five short paragraphs, it's pretty unclear what these things are for. And if they are for new two-way meters to replace these one-way meters, that's a whole different question and we need to find out

-- you need to find out what exactly this is for. Who is it going to serve. Well, it's very common, it's most common with for-profit utilities if there is a special meter needed for, quote, high-end users, which is the terminology that's used in the backup here. That those customers pay for that through a capital recovery fee. And that's a question that really should be looked at here because as Ms. Cooper pointed out to you today and I agree it's true that 80 to 90% of these types of costs are being passed to residential consumers. And if, in fact, we're purchasing here two-way meters to serve high-end users, that's not residential customers. They are not the ones that would be

--

[07:47:42]

[buzzer sounding]

-- bringing these costs to you. So thank you.

Cole: Thank you. Is there anyone here from Austin Energy? That is the end of our speakers.

Yes, chief operating officer at Austin Energy.

Cole: Sheryl, you've listened to the testimony on several items. Let me just start by the one that I have that wasn't answered. I don't know how this contract would work with water, wastewater metering billing.

Yes, I can answer that question. If there was interest on behalf of the water department to have reads done underneath this network, then that is certainly something that is possible to be done. There are other cities where this network is deployed or a similar network who use that same network for water reads, and we have done some pilots in the past with the water department for them to look at doing automated reading.

Cole: At this point we haven't received the request, is that the idea?

The water department evaluated it and I don't know there is anybody from the water department here any longer but they have not chosen to move forward at this point for automated reading for water meters.

Cole: Can you tell us a little bit, I'm going to follow up on some of Carol B's question about how this relates to the Landis contract?

[07:49:47]

We have an existing contract as was pointed out with Blandis and Gyr and I believe its value identify through 2017. But this is a new contract that original one was entered in back in 2000 or one and it's been amended to add additional meters or additional services and so this new contract would replace that contract and would have a 10-year life.

Cole: Is there

-- she asked also if there was a long-term AMS plan.

Yes, we do have a strategy. We actually have all of our meters covered today under an automated meter reading contract that is provided by Landis and Gyr and that's a service they provide to us. So presently all of our meters are being read by Landis and Gyr. This contract value is \$6 million a year to provide is the service of reading meters and presenting those for billing purposes. Unlike when we did manual meter reads, we get those reads multiple times during a billing period. And so it's of great assistance to our customers when they call in to the call center and they have a concern about a bill, now they can actually log on to the system and they can pull up and say what was your read yesterday or the day before and help customers understand how they've used their

energy that often resolves the billing question right on the phone. Customers remember yes, i did have a party or yes, my kids were home for spring break and my consumption was much higher so we're able to resolve a lot of concerns over the phone by having daily reads available to us to provide the customers.

Cole: So essentially would you describe this as a technology upgrade?

There is some upgrade in this package for us. The actual radio network is owned by landis and gyr and we buy services. We don't own the radio network, we own the meters and have that piece of infrastructure, but the infrastructure to actually perform the reads and present the data is part of the service contract and they are upgrading that head-in system is what they call it to bring it up to their latest software offering which will enable us to do a lot more things for customers. It was mentioned already that we still have one-way meters in the system. Those were some of the original meters deployed. They still function, they are still fine, but over time we believe that we will want to replace more of those with a two-way meter so we can provide additional services to customers and enhance the actual operation of that network.

[07:52:19]

Cole: Thank you, mayor.

Mayor Leffingwell: Councilmember tovo.

Tovo: I have quite a few questions. I think I'll ask a few of them and then suggest we might be best off continuing to explore this, but let me start by asking, I guess I'm particularly concerned about the planning that's taking place or has not been taking place with the austin water utility. I assume at some point, you know, and I'll just say from time to time, and with some regularity we get calls from constituents who are struggling to pay their bills because of when the timing

-- the timing of when they get them. They get their checks several days after their utility bills are due and there's an issue with being able to change their billing date and that stems from the fact austin water utility does manual reads and there's one billing system for the water utility and austin energy. It would seem to me that in the long run we probably need a system that's going to work for the water utility and austin energy. And so I mean I agree with the comment this is a huge amount of money and have you sat down with the water utility and talked about what their long-range plan is. Are they planning on doing manual readings or looking toward a more automated system?

We have in the past worked with the water department and we have selectively deployed at their request meters where we have tested the automated process. I'm not aware that they have on their radar, I don't want to speak on their behalf, but it would be a pretty big endeavor to go out and change all the meters. Austin energy did make that commitment and we have gone out and automated all of our meters kind of for the example I provided because it lets us serve the customers better. As we look at other types of reads, time of use and other things, having this system allows us to do those services for customers. I understand you are concerned about something that can facilitate being a more date choice but I can't speak on behalf of the water department as to where that would be on their list of priorities.

[07:54:27]

Tovo: I understand that. Thank you. I mean I think date choice would be just one of the many efficiency we might realize if there was better coordination between the kind of reads that our water utility and our electric utility are doing. I'd like to talk for a minute about the contract with

-- it's been said four years remaining, so what is the push for doing this here today? Is there a reason why we would need to enter into this today?

Some of the push for doing this is that we have been looking at ways to improve the network. And as I mentioned, we will get an up grade with no additional cost to austin energy, but by doing the contract extension we will get an up grade of that head-in system that gives us many greater functionality over the long term. We also use this network as part of our smart grid. And so as we put more automated devices into the air and on to the distribution system to provide additional smart grid and, you know, restoration activities that we can do, this same network is what we use to do that communication. And again, we get that as part of the service for no

additional incremental fee. For us moving forward on this contract now means that we can start preparing those projects and bringing them forward and we would be happy to come back at some future point, and I know we've talked as a proposed item at a future council committee meeting on austin energy, to come back and have an extensive conversation about the smart grid strategy of austin energy and I think that's proposed as a december item.

Tovo: So in the

-- in the backup description, it talks about the services used by austin energy to capture automated meter read services data, acquire and manage advanced meter data for high-end users. Who are our high-end users?

We use the same system for all of our customers. In fact, in this new contract we will have a single price for all customers that's less than what we have today. David, would you like to make any comments on high-end services that we get?

[07:56:35]

Tovo: Are high-end users the large industrial customers? Is that who we are talking about as has been suggested by speakers?

David wood, vice president of electric service delivery. Yes, councilmember, it primarily is at this point our commercial and industrial customers. We provide a number of services to them that

-- with the current system it will be much easier and much more cost effective under the new system. As we go forward, one of the conversations we've had during our rate review was to provide time of use rates. And while we have a chair for that, the system is really not set up to be able to support that in a very efficient manner. They provide time of use rates and we've talked about doing that for houses of worship as well as an option to go to time of use in the future for our residential customers as well.

Tovo: What will be the immediate improvement in our services to residential customers if we entered into this contract? Would they notice any difference? Would they have any options they don't have today?

My pause is I'm an engineer and I tend to try to be precise in my answer. So the

-- the answer is day one is the answer is obviously no, there won't be any difference. As we move forward and sheryl mentioned that we have a very comprehensive smart grid strategy and we're actually trying to transition that strategy and calling it smart utility and this is an integral piece to that strategy. And in the near term, and that's two to three to five years, we will actually be able to provide quicker restoration to customers that are out. We'll be able to provide better demand response services to our customers. There are a lot of activity right now at ERCOT that the system will enable us to actually participate in actually down to the residential level. There are a lot of things in the air right now and this system really will enable us to actually fully participate in those things.

[07:59:08]

Tovo: Thanks for that, I appreciate it. I would like to understand better how

-- well, let me ask you this question, either one of you, how will these costs, how will this cost be allocated to customers? I think we heard one estimate that residential customers could be paying as much as a dollar a month in their bill for the cost of this \$60 million contract. Would you say that's accurate? I don't see any figures in our backup that articulate that kind of calculation.

I don't know that I have the answer for that for you. Obviously it costs about a dollar to do a read per customer per month. It costs to do that for all customers. So you would have to go back to the rate case or we would have to talk about that, but the \$60 million is just the fees for the

-- it was probably allocated during the rate discussions appropriately.

Tovo: And has austin energy prepared any kind of cost benefit analysis along the lines of what some of the individuals here today have discussed about looking at what it would cost to over the next several years bring this service in house?

I guess could you clarify that for me, what do you mean bring that service in house? You mean going back to manual meter readings with once a month reads?

No, ms. Cooper in her public policy questions, the first what is missing from the information provided the electric utility commission is any type of cost benefit analysis showing it's cheaper to use contractors to perform meter reading services than to do these services in-house. She goes on to talk about other, you know, various other questions that could be answered.

Yes, for austin energy to perform this type of service in-house, austin austin energy would have to build a radio network, build a network to get the reads. We would have to buy either a different system and replace all of the different meters that exist or

-- so there is no cheap way to get to that particular scenario. And we would be investing heavily in technology and in staff to run and man those systems. So it would have a cost that's not, you know, would it be about the same \$6 million per year, I have not done that study.

[08:01:41]

Tovo: Okay.

But I know that the infrastructure itself and the exchange of the meters would be well in excess of \$6 million.

Tovo: Okay. Thank you. I'm going to suggest that there really are some good questions that are

-- that ms. Cooper and ms. Day have raised that I think would benefit from further explanation and discussion at our utility commission if not among council committee and I would like to see the water utility weigh in on whether there's an opportunity for this for us to make sure that we're making an investment that could -- that takes their needs into account so I'm going to move that we postpone this at least until august 8th if that allows the electric utility commission to take another run at it. But I do think it might make sense for us to have a discussion at our council committee.

Cole: I'll second that motion.

Mayor Leffingwell: Motion by councilmember tovo, seconded by mayor pro tem cole cole I'm not saying that we need to discuss it at our subcommittee meeting, I think we just need to bring it back before council and get input from the stakeholders and some questions to ae and euc.

Mayor Leffingwell: Could I suggest a friendly amendment that we close the public comment period for when we come back?

Cole: Fine with me.

Mayor Leffingwell: Councilmember morrison.

Morrison: Thank you.

Tovo: I'll accept that wit caveat if we have specific questions for those involved that we invite those folks up to talk.

Mayor Leffingwell: Councilmember morrison.

Morrison: I have some more questions, exactly what this contract is for. The bottom line is we already have the meters at the residences, well, at the utility customers including industrial. We already have a radio network that we've paid this company, landis and

-- what's the name of it?

[08:03:42]

Landis and gyr. . Morrison: WE ALREADY Have that network that they have built.

They already have that network to produce the

-- we do not own it. We pay a service fee.

Morrison: Currently we have a contract with them to read that network and we're talking about replacing that contract with the new contract.

That's correct. We're replacing the contract. We're extending the term of that contract. In exchange they will upgrade that network which will give us, as david said, greater capabilities than the current network provides.

Morrison: So one piece of information I don't have is how much do we pay annually right now, because that would be real important relative to this suggestion which is \$6 million a year.

David has those figures, I know, and I believe this is revenue neutral. That the first year will cost exactly what it's costing today.

The term of the existing contract, with the four remains years we have 35 million of authorization left. We are paying approximately \$6 million a year. The

-- with this new contract, it's \$60 million contract so in effect we're getting six additional years for \$25 million additional, which works out to about that 6 million

-- it's about 5 to 6 million dollars per year.

Morrison: Okay, and there's some of that I didn't follow. The \$35 million additional authorization that you have, what was the

-- how many years did we

-- if this is not approved and we decide to stick with the current, how many years does that last is this.

For four years. So until 2017. There's \$35 million left on the existing contract.

Morrison: So it sounds to me like previously the council approved more than 6 million a year.

That's correct, yes.

Morrison: So why wouldn't this be actually a savings? Do we not use the full authorization every year?

[08:05:48]

We do not use the full authorization every year, that's correct.

Morrison: Okay.

And as we provide our customers additional services, additional reads, the cost for the more complex reads, the time of use for example for residential customers, under the existing contract, those reads are very expensive.

Under the new proposed contract, the

-- those reads actually will cost us the same as just the normal residential read we do right now. So as we use more advanced services under the existing contract, it would cost us more and more money. Under the new contract, it would actually

-- it would flat line, it would not cost us any additional money.

Morrison: And then you also mentioned that they are going to be upgrading to a two-way network as opposed to one way. One way I presume is from our houses to the central database and we're going to start talking about actually sending commands the other direction? Is that right?

Well, actually it's a little bit of a misnomer is that the system we have right now actually is a two-way

-- it's a hybrid one way, two way system. The reason it's hybrid we have to types of meters on our system. We made an initial deployment of about 120,000 one-way meters. That's the ability for us to be able to actually read the meter. Then we made an additional

-- an additional deployment of two-way meters which we were substantially meet on in August of 2009, and that was about 380,000 meters, which complete the installation of the smart

-- of actually having a smart meter at every customer's location.

[08:07:48]

[One moment, please, for change in captioners] that's an example of one of the benefits, one of the service improvement benefits that our commercial and industrial customers will see.

Morrison: And also there have been some questions raised about how this interfaces with the billing system. Can you talk about whether the interface has to change at all? The interface won't change at all. In our industry we talk about

-- I just forgot the term. We talk about meter to cash. I'm sorry, I lost my mind a little bit. Metered cash.

[08:10:18]

Cache. Not cash. Let's be clear.

Cash, cash. Yes. So the meter is our cash register, whereas

-- so

-- i forgot the question now.

Morrison: I was asking about interfacing with the billing system. Will we have to build new interface.

So the existing system right now provides that meter to cash, which is how we actually get the meter reads all the way into the billing system. This system is not going to change that flow. Now, we have another project that is dependent upon getting this one done that will actually be able to insert basically have a database where we'll actually be able to capture information. This system will feed that and then that system then will feed ccnb. And that will actually provide a lot greater functionality for the utility as well. A much more information for our customers as well. But on this initial deployment there's not going to be any change as far as ccnb is concerned.

Morrison: Okay. I'm going to support this motion. To me giving this information is very helpful and it's sounding very reasonable. The backup information just really

-- I had not a clue what it is. And the questions that we're getting from the community, it's clear that we just needed real basic information about what this even was. So I think it makes sense to take a little bit of a reboot time. I understand it's not too much of an issue from staff's perspective.

Is that correct?

I think it's linked to other projects. I think if we move it to the august 8th agenda it will still be reasonable to continue this project as well as others.

Morrison: I think it will be great because now that I have a grasp of what it is I think there will be a better understanding of the community. I rely on some of these folks in the community to ask questions that I'm not -- that once they understand what we're talking about. So I would really like to have that time and I don't know if it would make sense to provide greater backup that has a better understanding of what we're talking about somehow in a memo to council that's available so that we can start our discussions from there.

[08:12:45]

Yes. We can prepare a memo and get that to you so it will be her AUGUST 1st.

Morrison: Okay. Maybe some diagrams even.

Mayor Leffingwell: Okay. I will support the motion to postpone also, although i see absolutely no reason to do it. I think it's definitely a step forward in improvement and help us reach our goals faster with regard to the smart grid. And however some other folks are more comfortable having a little more time to study it, and it doesn't matter that much to you, I'm fine with it. And besides, I have to

-- since my friendly amendment was accepted I have to cleave to the motion. All in favor say aye? Opposed say no.

Cole: Mayor?

Mayor Leffingwell: Did you say no.

Cole: No, I said aye and then I said mayor.

That passes on a vote of seven to 0. Mayor pro tem cole.

Cole: I would like to make a motion to reconsider items 18 and 19, given that the applicant did not get a chance to respond and had some concerns about our vote.

Mayor Leffingwell: That's a motion by the mayor pro tem to reconsider

-- and all of us are eligible to make that motion because we all voted with the prevailing side. So I will second that motion. All those in favor, signify by saying aye? Opposed say no. I think that was a vote of 6-1 with councilmember tovo voting no? All right. So we'll now take up that item, 18 and 19 together.

Cole: 18 and 19 together. Mr. Hubb the e, would you like to come forward and I'll ask you a couple of questions? It's my understanding that you have some concerns specifically, maybe legal, with our actions. Can you explain that?

[08:14:46]

City councilmember, david heartman for the applicant. Of course the vote by way of context, the vote was to perhaps take some time until the august 8th meeting to perhaps enter into an agreement with a third-party with

respect to the enhancements. If I could ask the powerpoint to be brought up, I'll move to one slide. Thigs are the voluntary environmental benefits that we've

- that were discussed earlier today. By way of context we've been dealing with this site plan review since early february and the site plan is ready to be issued. About the only comment on the site plan to be cleared is approving this ser. If this ser is approved then the site permit will be issued in a couple of weeks. In the past several weeks and months the law department has said we cannot put these several items that go beyond the city requirements and any agreement that is developed by state law
- when the law department was asked whether we could do that with s.O.S. Or a third party, the question was it's a gray area at best. Subsequent to this vote to further consider this
- to postpone this to AUGUST 8th, I'VE GONE BACK And looked at the language myself. And it appears to me that not only is it a gray area, but it's absolutely prohibited by state law to enter into these agreements. So I would just reiterate that these binding agreements are in our site plan that's about to be issued in two weeks or so. My client spent about \$320,000 on that site plan to get it to this point. And it's got \$460,000 into this project to date. We're contract actually bound to serve those additional lots 2 through 8 to our s.O.S. Pond. My client would have to just totally revise the site plan and resubmit it and go through all the engineering required for that for a new submittal restart, review from scratch. I would just on a personal note say that my client is basically homegrown austin developer that has put 800 or so apartment projects on the ground here in central texas, 5,000 in texas, nationwide. And I would personally vouch for my client following through on these commitments. I suspect that if you
- when I hope you approve these, these ser's, and we change the game on a go-forward basis that you probably wouldn't approve it in the future, nor would you probably have my word taken into question in the future. I would be happy to personally notify your staff when that site plan is issued here in a couple of weeks and confirm that it in fact does what we say we're going to do. Again, it's been in sight plan review since
- site plan review since early february and I would just encourage you to grab the brass ring that this project brings to the table in terms of nailing down s.O.S. Water quality for all of those lots and encourage you to support the environmental board unanimous approval of these ser's. I'd be happy to answer any questions.

[08:18:39]

Councilmember tovo.

Tovo: Thank you, mr. Hartman. I want to understand your earlier point about the legality. You made a comment about it being illegal for you to enter into another agreement?

Subsequent to the vote, again going back to the law department can speak for themselves, but when they were asked whether or not entering into the third party agreement with the third party, excuse me, they thought that was a gray area. Subsequent to the vote I've gone back and looked at that language and I believe it's not just a gray area, but it's absolutely illegal. So it's not allowed by state law, so I can't in good conscience advise my client to go through the process of coming up with an agreeent that is not valid by state law. So I go back to point that we can't legally come to the agreement with this third party so therefore we're back to square one of let's approve these ser's and enjoy the environmentally superior project that these offer.

Tovo: Well, what i understood from our legal staff is that any requirement on our part in terms of a contract was -- could be in violation of state law, but whatever you do on your own with a third party wouldn't seem to enter into that. The action we took was to allow

-- we had two individuals come and request some more time, I assumed to work with you and to talk about it. That might be something that they want to talk with your client about, about whether or not if he or she would be interested in entering into a contract. But we hear requests all the time for postponements and we very often grant them to allow parties to talk. But is it your understanding that for you to even go and have that conversation would be in violation of state law?

[08:20:43]

To actually enter into an agreement would violate state law in my opinion.

A private agreement that you have with another third-party?

That's correct. That's my interpretation.

Tovo: Okay. That doesn't seem consistent with our staff, with our staff interpretation, but I'm not sure it's a consideration for our body anyway, what you decide to do or not do in terms of your outside negotiations is clearly stated as sort of not a matter of our concern other than whether or not we want to grant you a time to do that. And then I have one other quick question for you.

Assistant city attorney clarke cornwell. The statute speaks to agreements with the governmental entity. It doesn't speak to agreements between private parties, and that's what I was advising on earlier.

Tovo: Thanks for that clarification. Mr. Hartman, I just had one other question. Are you -- you hadn't signed up to speak and we probably should have invited you up to talk about the postponement, but were you suggesting a minute ago that if this doesn't get decided today that your site plan would expire in the meantime?

Our site plan expires in late July. We can request an extension of that site plan, which would probably be granted administratively.

You said you can request? So if it came back to council on the aides and we determined that we had -- eighth and we determined that we made a decision on it, it wouldn't interfere with your site plan at all because you could get an extension.

That's correct.

Tovo: Okay. Thanks very much.

Mayor Leffingwell: Could you ask you, Mr. Hartman, about the opinion that Mr. Cornwell expressed that that applied only to contracts with the government entity and not to restrictive covenants with private individual or individuals?

I guess that's a different statement than I recall the city law department advising earlier. I thought they indicated it was a gray area. And as I indicated, I looked at it closer and it just looks to me like it's absolutely prohibited. But that's new information to me and

--

[08:22:53]

Mayor Leffingwell: But as to the question of a restrictive covenant, private restrictive covenant versus a public restrictive covenant, there's no difference in your mind?

That's correct.

Mayor Leffingwell: And then I've got another issue that I want to raise that's related, and that's -- based on the discussion we had today that if this were in place things would be different, etcetera. Then if you were to go back and negotiate a private restrictive covenant and were unsuccessful, and then you came back on August 8th and this council denied your ser, it would seem to me like being a non-lawyer, that we denied your ser because you didn't have this private restrictive covenant. So

-- and that to me, that scenario leads us way beyond gray into very negative territory. Councilmember Riley.

Riley: David, I just wanted to follow up on that legal question. When I asked staff previously about the legal authority for the constraints that they were referring to, they pointed me to sections 212.171 through 212.174. Actually, it's 212.172 through 2.174 of the local government code. Section 212.172 says that the governing body after municipality may make a written contract with the owner of land that's located in the e.T.J. And then it talks about the authority

-- that authority. The city can enter into a contract with the owner of land in the e.T.J. And the last section, 212.174, it says a municipality may not require an agreement under the subcaptain as a condition for providing water, sewer and so on. So that's where I understand the prohibition to come in. So one says we can generally require

-- you can generally enter into these agreements, but you can't require it as a condition for providing water. I'm trying to understand your statement that state law absolutely prohibits your clients from entering into an agreement with the third party because I'm not seeing that expressly addressed by these sections. Is there some

other authority that you have in mind or do you read these sections to apply to your clients entering into a contract with a third party?

[08:25:38]

It's the latter plus the logic that the mayor kind of brought forth is if we come back before you and we have for whatever reason not entered into an agreement, then you deny us and that further ramps us up past the gray area into the prohibition.

Riley: I canned in that reasoning and it's a whole different argument from saying that you're prohibited from entering into an agreement with a third party. I'm still not seeing anything, any authority, any legal authority for that assertion that state law absolutely prohibits you from entering into an agreement with a third party. I'm just not seeing the basis for that. So if you do find some authority for that, I'd be interested in seeing it. We don't have it before us, at least in any kind of expressed terms.

Cole: Mayor, I have a question. Actually, I have a question of councilmember Spelman. I am trying to recall from our direction whether or not we actually did require an agreement of a third party.

Spelman: Absolutely not. May I answer the question, mayor?

Mayor Leffingwell: Yes.

Spelman: I'm actually reading the section 212.174 of the local government code now. And in fact, there is no prohibition on the applicant entering into agreements with anybody he wants to. The prohibition is on our requiring you to enter into an agreement with us. It says a municipality may not require an agreement under the subchapter as a condition for providing water, sewer, etcetera services. So I was aware of that vague term and now I'm aware of it in very specific terms. And if we were to ask you to go talk to

-- if we were to ask you to make an agreement with us in exchange for an extension, it is obviously inconsistent with the law. That's illegal. I believe that you're right. If we were to require you to make a deal with Bill Bunch or anybody else in exchange for certain extension requests, that would be conceivably a gray, but I don't think it would be a good idea. I think if anybody were to challenge us in the court they would probably beat us. That was not the intent of the motion at all. The intent of the motion is we had some people that we rely on on a frequent basis to be watch dogs over the environment, particularly over the Edward's aquifer. They were uncertain as to whether or not your clients were going to abide by the promises that they were making (indiscernible) because they may not be as aware as you and I are of the costs of revising a site plan once it gets almost to the point where it's ready to sign. And I believe all this council was doing was asking you to talk to those guys and reassure them that your clients were actually going to do what they said they were going to do. If that then led to a public restrictive covenant or whatever instruments that Bill Bunch or Bill Whaley thought would be helpful to them to be reassured, that would be great, but mostly I was dealing with the political problem of people that we rely on heavily not being reassured and opposing what I think is actually a real r. Really good development which deserves an service extension request. Does that help?

[08:28:49]

It does. Thanks. Appreciate it.

Cole: Mayor

-- same other.

Mayor Leffingwell: Go ahead.

Cole: Mr. Hartman, I believe you told councilmember Tovo that your state plan does expire but you could have an extension and still come back to us on the eighth. Did you want your client to speak to that or the water protection?

Just confirming what I said earlier with my client that it's correct that it can be extended, so if it's the council's pleasure today, then we can go forth and further explore this UNTIL AUGUST 8th.

Cole: Okay. You're clear about what that direction was.

Yes.

Cole: Mayor, I made a motion to reconsider that was granted. I want to stick with the motion to postpone. I'm asking for parliamentary

--

Mayor Leffingwell: I don't think any action is required.

Cole: No action required.

Thank you.

Mayor Leffingwell: Thank you. Councilmember riley.

Riley: I just wanted to echo councilmember spelman's comments that I viewed this in a very similar way. We had -- we heard concerns from community groups and it's fairly routine that when we first hear those concerns that we will grant a first postponement request, whether it's a zoning case or other matter. We typically grant the first postponement request. I was just trying to check passage. I think this item happened on a past agenda and so I assume it was postponed. I don't recall there being any request

-- I don't remember what prompted that postponement. Was that a staff requested postponement or was that requested by someone in the community?

I actually don't remember. I think it was a staff-requested postponement. There was

-- we were trying to work through the details on what they were proposing. And we're trying to develop a legal vehicle for greater certainty on their voluntary environmental enhancements. And we weren't able to do that. And as we were trying to develop that, we had not run that to ground yet. And so that was the result

--

[08:31:18]

your recollection is that staff requested the postponement.

I think that's right. And we just exhausted all of our options and this is where we're at today.

Riley: So it's fairly routine that the first time we get a postponement request from a community organization about a case, we grant it without too much

-- without much

-- too much fuss. And so I saw this in the same way, that we granted a postponement to allow some further consideration. And in no way do I see this as conditioning our approval of the item on any sort of agreement that you might or might not work out with anyone else.

Mayor Leffingwell: Yeah. And I will just say that it's clear, it's very clear that this proposal is much superior to what could be done on the ground as it is right now, put in a septic field, develop all those lots to 65% with no degradation, water quality controls. Those are the options that are before us. And having presented you with the option

-- all we're asking

-- all the council is asking for, I'm not asking for, is that you go back and document, legalize the promises that you've made right here, which would also have to be made at the time of site plan approval anyway. So if it makes people happy to come AUGUST 8th, FINE. If we have to go through that, that's fine. It wouldn't be my choice, but I support it now and I will support it on AUGUST 8th. Regardless of what happens. Councilmember tovo.

Tovo: Mayor, I think that we

-- I just want to be clear that my vote in favor of a postponement is not asking you to legalize or document anything. It is just allowing you time to talk with the other interested parties.

[08:33:25]

Mayor Leffingwell: Yeah. I made that comment based on the comments from the speakers, bill bunch, for example. He specifically said they say they're going to do all this, but we won't garden

-- we want guarantees in the form of a restrictive covenant.

Tovo: Right, mayor, I appreciate that. We certainly heard that and I think we've received some clear guidance that that's not within our purview to require or to request, but we can offer everybody more time to talk.

Mayor Leffingwell: I just want to make sure that we don't

-- we aren't seen to be requiring it defacto. Thank you very much. Now we get to item 65. And I think you already missed your plane, didn't you? Got 30 minutes to get there? 69, we have a number of speakers. We'll go directly to the speakers. Don arsenault. You have up to six minutes.

I would like to take the opportunity to come and speak with you today. I would like to thank my friend for giving me three minutes. I didn't realize we had time constraints until this morning. I own and operate aerial advertisers and have condition done so for approximately the last 37 years in the austin area. And the problem we're having here is we've been getting complaints recently about the noise that the aircraft has been making

--

Mayor Leffingwell: Can you pull that mic closer to you.

Is that better? In the past 35 of those 37 years, if you had any records on how many complaints I've received, you would probably be able to count them on one hand and be able to do so even if several of your fingers were missing. But for some reason within the last year and a half or so, if I were to ask you how many complaints you had received you would tell me that you've received several. And if I were to ask you how many of those had been received from the zilker neighborhood association, you would probably tell me that pretty much all of those. So in the past 37

-- 35 years I've received no complaints, even from zilker, but within the last 18 months I've received several complaints. So we have to look at what's the difference here. And as far as I can tell the difference is f1. When formula one came to town and they started operating helicopters low over the zilker area, rightly so they had concerns, safety concerns and noise concerns. And I think I'm receiving a lot of the fallout for that. And I think you can

-- if you want to back that up you can go to the statesman facebook and the fox 7 news facebook. I checked those this morning just to see what other people thought about the news programs that were on yesterday. And I stopped counting at 100 to zero in favor of not adopting this resolution, which would basically put me out of business. Governor perry and a lot of the city officials have been going around the country and they've been trying to bring business to texas and rightly so. Texas is a great way to operate. I love it here. But we don't want to send a message to these businesses that yeah, come on in here and operate and everything will be just fine unless we have a handful of people that don't particularly like what you do or you inconvenience them, in which case we may just shut down and send you packing. Was that a buzzer for me? Oh, okay. Maybe it was my phone. The way I look at it, this is america. This is the land of the free. I spent four years in the air force defending that, and I still continue to do that. This is austin, texas, and there's no place on the planet that embraces civil liberties and individual rights more than austin, texas does. And trying to put me out of business because of some things that some other people are doing is not only not fair, it's un-american and I think it's totally untexan. When I was coming in here this morning I was speaking with councilmember tovo's aide, I want to thank her for calling me. I appreciate that. And as I was driving in, i said gosh, we have all these billboards out here. We're is one for a topless club. There's three or four for beer and wine. Here's one for adult bookstore. Why

-- that's got to be more objectionable than what I'm doing. She said we have an ordinance against that now. I said they're right in front of me. She said they're grandfathered and nothing we can do about that. I think if they're grandfathered, then he must be great grandfathered because I've been here a lot longer than those outfits have. That's just the moral issue on these. I also have tried to do all the research that I could on other municipalities that have tried to do this. One was in hilton head. And according to the aviation news agency, I'll just read the headline to you. F.A.A. Says hilton head can't stop plane banners even if they are tacky and annoying. I don't do anything tacky. I'm very restrictive on what I pull with my airplanes. Normally I'm not annoying except occasionally I'll go over a neighborhood if i have a will you marry me or happy birthday or something like that. 90% of my banner towing is over traffic, i-35, mopac. And when the longhorns are playing, I've got an hour before the game starts that I can pull a banner then. Acl I got a lot of flack for all the noise over acl. I was at my dad's neighborhood. I wasn't here. It was people from out of town. I am the only operator in the texas area. So if you look up aerial advertising on the internet and google it you will find about 20 of them. Those are all brokers or people from out of town. I am the only one doing it and have been here doing it for quite awhile. This is a quote from aileen salack, an f.A.A. Spokeswoman on the hilton head matter. She says the f.A.A. Controls civil air space for the united states of america. In most cases the federal law supersedes any local ordinances. The short of it is that if people are operating aircraft safely, then there's nothing to stop them from flying over anywhere in the country. And I got one more here that I'll read to you, huntington beach, california tried to do the same thing.

And it says california banner tow nixed. Hawaii ban could be next. And what they did down here, it says the council rescinded the ban shortly after the f.A.A. Removed language from its general aviation operating handbook, which a federal appeals court cited a year ago in upholding a honolulu statute, referring specifically to banner towing.

[08:40:56]

[ Buzzer sounds ] the deleted wording says that the operator is responsible for requiring knowledge of state and local ordinances that prohibit banner towing. That's what they removed from their documentation.

Mayor Leffingwell: Thank you. That is your six minutes, but I have a question for you. Having spent many years, a career in aviation, I was utterly shocked that there was any question about whether or not a locality, a city could regulate federal air space in any way.

I didn't know if it was a new e.T.J. Or something like that.

Mayor Leffingwell: But really there is federally regulated air space which includes an area from the ground up to several thousand feet around every airport. And everywhere else it's from the ground up to a thousand feet. Is it a thousand feet or 3,000 feet?

There are different regulations. At a thousand feet you have to have specific equipment in the airplane and whatnot. But the f.A.A. Controls the air space right from ground level up.

Mayor Leffingwell: Yeah. So it's just

-- it's just baffling to me that there are several documented cases on the record where people have tried to do this and the federal government said you can't do it. This is federal air space. It's governed by federal law.

In all fairness to the zilker people, I try to be sympathetic to neighborhoods and whatnot. And I'm certainly not trying to create any aggrevation or anything from them. And just

-- my final note is I have a little six-year-old at home, and he's just real proud that he just graduated from kindergarten. And in his little yearbook under his name where it says what all the kids want to do, he said he wanted to be a pilot. I thought that was really, really cool and I like that. But after all this

-- he's been privy to all the work I've been doing on this and before I left the house this morning he gave me a big hug like he normally does and he said daddy, I decided when i grow up I want to be a cowboy.

[08:43:01]

[Laughter] thank you for your time.

Mayor Leffingwell: All right. With that we'll go to our next speaker. Councilmember tovo.

Tovo: I just wanted to thank you, sir, for being here and sharing your experience. I hope if this passes today and we're asking the staff just to investigate what the

-- whether a municipality has an opportunity to apply any restrictions or prohibition, I hope you will be involved in talking with the staff about your experience and your perspective here. And I'm particularly interested in the number of complaints having a sense if you've experienced that too. And I wonder if it's because we have lots of outside operators coming in here and working doing what you've been doing for 37 years. So learning a little bit more about your experience i think will be useful to the broader discussion regardless of what action we take. So thanks again for being here.

Mayor Leffingwell: Councilmember morrison.

Morrison: I wanted to comment

-- there you are. And thank you also. That's fine. That's fine. Stay seated. And one of the things we're trying to do especially is austin's become so much popular and we have events every weekend and all the pressures that come from that is really trying to find the balance to make sure that we can still enjoy the events, but still protect the quality of life. And I did hear you say that you really don't want to be annoying, and at a minimum

-- so I hope this passes, my name is on as a co-sponsor, for us to look into what options we might have, which might be none, but in any case it started a conversation and i appreciate your comments that you don't want to have negative impacts on neighbors and maybe we can also have a conversation about how we can promote that in a better way with the business that you do.

Mayor Leffingwell: David king. Set the clock for three minutes, please.

[08:45:35]

(Video playing).

That's what is like to have a banner plane flying right over your house, and it's not just one banner plane and it's not a helicopter. And there is a difference and we know the difference between that. And in fact, we just got through with a stakeholder group process in which the helicopter operators came in and worked together with neighborhoods to come up with a good solution to

-- that works for everyone. And I hope that we can do that with this process and come out with a positive result. I appreciate that you do not want to be a nuisance and you're a local person here. No one wants to put anybody out of business. We just want some relief from these banner planes that fly one after another, primarily over acl fest, but with more and more events coming over zilker park and in that area, the zilker neighborhood does get bombarded, if you will, pardon my language, with banner planes training over the neighborhood, right over my house as you just saw. And one plane will fly over and be followed by another one about 10 minutes later and then another one 10 minutes later. So it's not just a minor nuisance every couple of times a day. It's from 10:00 to 9:00 at night. It's on friday, saturday and sunday. And I can't even be in my backyard during those times to have a normal conversation. So

-- and it's not just me. There are other people in zilker who have posted on the culver listserv about these problems and you've received emails from prior acl fests because I have sent you some and I know other neighbors have too. So this is not just something that's occurred in the last year, it's a problem that's been around for the last few years and it's getting worse because more and more events are occurring right around the neighborhood there. And they do fly right over the house. And I appreciate that you don't fly over the neighborhoods, that you try to avoid that. And again, I'm hopeful that what we can do with this process here is to sit down together and come up with some solutions that promote things that help the neighborhoods and help you too and help everybody make the best out of this situation. So I would

-- I appreciate you bringing this forward, councilmembers, and considering some strategies that will help neighborhoods out. Thank you very much.

[08:48:04]

Mayor Leffingwell: I have a question for you. So what you're talking about here is banners, but it sounds to me like what you're complaining about is airplanes. The banners don't make any noise at all. It's the banner planes.

Mayor Leffingwell: So banner planes are regular airplanes, just pulling banners. Why did not not suggest that we ban airplanes.

Just airplanes don't fly over the neighborhoods like these banner planes do. They don't continually fly over the neighborhoods. And secondly, they don't fly so low normally. And thirdly, they're not pulling these big long banners and running their engines at full throttle over the neighborhood. You heard out loud that was and that's in my backyard. And it happens continuously throughout the day.

Mayor Leffingwell: I heard how loud it was on your video. That does not mean it was that loud in -- actually.

I was there, mayor, with all due respect. I was there. And I cannot carry on a normal conversation in my backyard when they're flying over like that, sir. And I would

-- and I'm not the only one. There are other neighbors who have that same issue. This is not a trivial issue, mayor.

Mayor Leffingwell: Okay. I have never heard a small airplane that loud, but we'll go to the next speaker. Roy whaley. Roy whaley. Pierre rio.

I'm here in favor of the resolution. I'm not here today to address whether the city should or should not take action because I don't think that issue is ripe yet today. As I understand the purpose of the resolution, I believe that councilmember tovo by sponsoring it, mayor pro tem cole, and councilmember morrison by co-sponsoring it, and the council as a body by placing it on the consent calendar, are doing the right, smart and prudent thing. And that is simply to direct city manager to, number one, determine whether there are any legal barriers to the city taking action. And secondly, if not, what form could an ordinance take that would be consistent with applicable

law? So this resolution should be non-controversial except to anyone who does not want to know what the applicable law actually is. I'm here today wearing my attorney hat metaphor rickly, and I'm here primarily to answer any questions that you might have regarding some questions that have been raised in the media, in the past couple of days, regarding f.A.A. Regulations and so forth. Of course, if you adopt this resolution, the city manager with the assistance of the able law department of the city, will look at the legal issues. So I will be perfectly happy if you don't have any questions for me today, but if you do, I'm here to address them. Thank you.  
[08:51:44]

Mayor Leffingwell: Any questions? Those are all the speakers that we have. Councilmember tovo.

Tovo: I think you've done some research about the honolulu case and some others, and it-- there are examples out there of municipalities that have passed -- it's my understanding that there are examples of municipalities that have passed either restrictions or out right bans that have been upheld by higher courts.

That's correct. To my knowledge currently every county in hawaii has an ordinance which was modeled on that of the city and county of honolulu, and there is a township in pennsylvania and a city in ohio which also have ordinances virtually identical to the one in honolulu.

Tovo: I assume they did that because there had been barn flying airplanes who were active prior

--

I also assume that to be the case. And also I assume that those ordinances, which were all more recent than the honolulu one were enacted by the local governments with knowledge of what the applicable law is, and so i think there's some precedent there.

Tovo: Thank you. It would be interesting, i hope, if this passes, that our legal staff will also look at whether there were considerations of how they worked with the local community as far as that goes. And whether there are other examples of municipalities out there that adopted rather than out right bans and limitations and what those look like.

Mayor Leffingwell: Any other comments? I'll entertain a motion on item 69. Councilmember morrison, councilmember tovo? Moves approval. Seconded by councilmember morrison. I'll just say I'm not going to support it. I think if it were entirely legal, which I doubt if it is, I still wouldn't want to do it, so I'm going to vote no. All those in favor, signify by saying aye? Opposed say no? No. That passes on a vote of five-1 with councilmember spelman off the dais. So we're past 4:00, so with no objection we'll go to the consent zoning cases. And we have a new face today since mr. Rusthoven and mr. Guernsey are both on vacation. Or maybe not. Maybe we have a mystery face.

[08:54:44]

[Laughter] here she is.

Good afternoon, mayor and council. My family is wendy rhodes with the planning and development review department. I'll begin with the 2:00 items where the hearings are closed. The first one is item 90, c 814-2012-0128-sh, think east austin located at 1411 shady lane and 5300 jain lane from limited office mixed use commercial conditional overlay neighborhood plan combining district zoning, and family residence neighborhood plan, sf-3 combining university to pud combining district zoning with conditions. This item is ready for consent approval on second and third readings. I would like to note that we are working on an item regarding the building of a road at this time. Item

-- then under the 2:00 public hearings with possible action, item number 91, crown-2012-0100, woodland commercial park located at 1640 south i-35 from community commercial conditional overlay neighborhood plan combining district zoning to general commercial services conditional overlay neighborhood plan combining district zoning. There is a postponement request by the staff to AUGUST 8th, 2013. Number 92, crown-2012-0109, sun flower located at 1201 robert e. Lee road from family residence, sf 3 district zoning to condominium residence sf # district zoning. There is a postponement request by the staff to AUGUST 8th, 2013. Item numbers 93, c-14-2013-0020, oak creek village, the public hearing is open. I understand that will be a 7:00 time certain item, will be discussion. Number 94 will also be a discussion item. Number c-14-2013-08027, located at 7905

brodie lane from neighborhood office conditional overlay combining district zoning to neighborhood commercial  
lr district zoning. Applicant has requested an indefinite postponement on this case. Number 96, ross conley, llp.  
This will be a discussion item. Number 97, allen development, located at 8800 fm 969 road from development  
reserve, dr district zoning and single-family residence standard lot to district zoning to commercial services  
district zoning. Staff has requested a postpo AUGUST 8th, 2013. Number 98, crown 20130045, huber family tract.  
This will be a discussion item. Number 99, 201320130047, jdj family holdings limited from development deserve  
district zoning and single-family large lot, conditional overlay, combining district zoning to multi-family residence  
low density district zoning. There has been a joint postponement request by the applicant and adjacent property  
owners on south chisholm trail to AUGUST 8th, 2013. Number 100, crown 2013-0048, westlake zoning. Located  
at 3725 westlake drive from lake austin district zoning to single-family residence standard lot district zoning.  
There is a postponement request by the staff to AUGUST 8th, 2013. Number 101, c-14-2013, 0051, the zoning  
and platting commission recommendation was to grant cs one-co district zoning and there is this is offered for  
consent approval on all three readings. 102, c-14-2013-0054, parmer u.S.290 retail. Located at 100104 east u.S.  
Highway 290 from development reserve district zoning to commercial highway services conditional overlay  
combining district zoning. There is a postponement request by the staff to AUGUST 8th, 2013. Number 103, c-14-  
05-0120, rca, parmer u.S.290. Located on east u.S. Highway 290 westbound. And the purpose of this is to amend  
a restrictive covenant to add a 3.142-acre tract to an existing restrictive covenant. There is a postponement  
request by the staff to AUGUST 8th, 2013. Number 104, c-14-4-2013-003, seaholm power plant. Located at 800  
west cesar chavez street and this will be a discussion item.

[09:01:07]

Mayor Leffingwell: So the consent agenda is to approve item number 90 on second and third readings. To post  
pone item 91, 92 UNTIL AUGUST 8th. To postpone item number 95 indefinitely. Postpone item 97 until AUGUST  
8th. To postpone items 98, 99 and 100 UNTIL AUGUST 8th. To close the public hearing and approve on all three  
readings item 101. And to postpone items 102 AND 103 UNTIL AUGUST 8th.

Martinez: Mayor? Add 99 as a discussion item. There's five speakers signed up.

I received a postponement request within the past hour.

Mayor Leffingwell: Councilmember morrison.

Morrison: Could you clarify for 98, did you also say that's a postponement?

Mayor Leffingwell: Let's see. What did I say. Item 98, no, that's a discussion item. Councilmember riley.

Riley: On item number 93, I think I heard staff say that

-- suggest time certain of 7:00 p.M. We've been in touch with the neighborhood on that case and talking about  
different times. The president of the bouldin creek neighborhood association isn't able to be here at 7:00, so we  
were talking about 8:00 p.M. Time certain on that.

Mayor Leffingwell: What if there's nobody here by eight p.M.?

We did discuss that possibility, and the neighborhood

-- I think the neighborhood came to some agreement that they wanted to take the chances and go with 8:00. If  
we think there's a realistic possibility we might be done before that, then we can go ahead and set it at 7:00 with  
the understanding that it would be taken up after the other

-- I think the downtown density bonus is also set at 7:00, so it could be taken up at the tail end of that.

[09:03:14]

Mayor Leffingwell: 7:00 p.M.

-- Well, this is

-- we're really dealing with the consent agenda right now, but if you want to add that to the consent agenda as a  
postponement until 7:00, is that what you're talking about?

Riley: Just setting it for a time certain. Actually, staff already set it at a time certain at 7:00 and I was relaying the  
neighborhood request at 8:00. But if council feels like we may be done before then we could set it at 7:00 with  
the understanding that we could take the other items set for 7:00 before that.

Mayor Leffingwell: I'll entertain a motion on the consent agenda.

Move approval.

Mayor Leffingwell: Councilmember martinez moves approval. Mayor pro tem seconds. All those in favor, signify by saying aye? Opposed say no. Passes on a vote of six to zero with councilmember spelman off the dais. Okay. I want to ask the clerk for help here. Item 68 showing up for

-- have we not voted on item 68? Pardon?

I just forgot to close it after checking something on speakers.

Mayor Leffingwell: Thank you. We've also voted on item 69. So this takes us to item 75 which I pulled. Before we go to speakers, the reason I pulled it, as i said in work session, very complicated issue and i think it would be of benefit. I know the lake austin taskforce hasn't even seen their own recommendations or so I'm told by one of the taskforce members. That we have a briefing, a stand alone briefing scheduled for the next council meeting and then at a subsequent council meeting we hear this case. So with that in mind if there's any interest in that, I would suggest that we postpone or withdraw this item. Apparently there's not much interest in going in that direction. We'll go to our speakers then. You have up to six minutes.

[09:05:44]

I'll be much briefer than that. I'm here to support this resolution, this item to provide more environmental protections to lots along lake austin shoreline that are rezoned from la to some other zoning category that doesn't offer those environmental protections. And as I went to the water fountain to get a drink before earlier I just thought about this resolution and how important it is to citizens of austin who rely on that water on lake austin for

-- as our water source. And I think that we should do everything we can to protect the quality of that water and take extra measures to look for solutions to the problem of lots being rezoned from the la category where they have these environmental protections to another zoning category where they do not exist. And I hope that the council will move quickly on this because it's important to protect that water source. And I know that you all believe in that and that's why you're here discussing this, and I thank you very much.

Mayor Leffingwell: Councilmember tovo.

Tovo: I wanted to ask if mr. King used three minutes or did he use the additional time?

Mayor Leffingwell: He used all the time that was allotted to him. That's the way we work. We don't reserve time.

Tovo: I wasn't clear on whether or not

-- you had called linda guerrero. Had she donated time.

Mayor Leffingwell: Yes, she had.

Mayor Leffingwell: And did mr. King use six minutes?

Mayor Leffingwell: No, he did not, but the time has already been donated.

Tovo: Okay, thanks.

Mayor Leffingwell: Roy whaley. Not here. Mary arnold. Not here. Carol lee. And donating time, jane rivera. Is jane here? Not here. Zoila vega? Not here. Daniel yanez? Not here. You have three minutes.

[09:07:56]

Thank you, mayor. Mayor and councilmembers, i was a member of the lake austin taskforce, and i appreciate councilmember tovo and spelman bringing this resolution toward your attention today. These are two of the more time critical issues that we had very strong consensus on in the taskforce. The rezoning in 2010 staff was estimating that there was about 75% of the parcels along lake austin that were zoned la. The rest had already been changed zoning. So since that time we've had another three years and you have cases posted now. I have received additional public notices of applications being filed for rezoning. And so there seems to be clearly a run on this that warrants pausing until we can get those environmental protections shored up. This is a very unique case. Our city environmental officer told us during our discussion that it was very odd that it was written this way to be included in the zoning. It probably should have been done as an overlay, but it wasn't. And as far as the other item of moving the variance process, I also used to be on the parks and recreation board and a chair of the

navigation committee. The parks and recreation board has sovereign decision making over dot cases, but yet we got no legal advice on these cases, which i think exposes the city to a lawsuit if the only way they can appeal is through district court. So the recommendation that those

-- that the board of adjustment hears cases that

-- cases that are set back on land, parks and recreation board would hear those same setbacks for if it's in water. But yet the parks and recreation board uses no findings of fact or any other criteria to make that decision. I think that really warrants straightening that out. The navigation board was started in 1940 to oversee private and commercial recreation

-- watercraft. They would actually board the boats, make sure the captains were confident and it has morphed since that time to a land use that is out of character with what they do and the rest of the actions with the advisory board. So that little sovereign piece we were trying to go to another board that has sovereign authority to reduce the risk of the city to lawsuits from bad decisions and determining these variances.

[09:10:59]

[ Buzzer sounds ] so thank you very much.

Mayor Leffingwell: Councilmember tovo. To.

Tovo: First I wanted to thank you and ms. Guerrero who is here. Both of you served admirably on the taskforce. I do have a question, so you might want to come back. You have addressed this, but I want to underscore the point. We have lots of very good recommendations coming on the taskforce, and i wondered if you could again underscore the importance of moving forward today with this resolution for the provisions that are contained within it. This is a very small thing and we've just isolated a couple of small key ones.

These are the two really key ones that are time sensitive in that we could incur much more damage to the lake and to our environment. And this is our drinking watershed. I mean, we already have four watersheds in austin that tceq has gotten attention of and we're having to do something about. And I think you can look and say, well, the development practices and stuff and the watershed were maybe not too good at that time. And so we already have these provisions that have defined the really environmentally sensitive area of lake austin to be a thousand feet from the shoreline. And that's what the zoning protects. And it unfortunately buried some of the things that are specific to the shoreline, the woody vegetation and setback and things like that in the zoning so when you get it rezoned, it's like your not even living on the lake anymore. Your backyard set back becomes 5 or 10 feet..or whatever it's no acknowledgement of any shoreline. So, you know with every case that goes high and every variance that gets approved we lose and risk our water quality. With that so, it's time critical. I mean you are asking them to come back with recommended solutions it still will be a couple of months. It's really important for staff to get started on that now..(TOVO) and your work on the task force. Did you find there had been, that there is an urgent need for a different way of doing things, out on Lake Austin? I mean did you find evidence of practices which are defermental on the Lake and the drinking water? (Lee) Absolutely! Absolutely and I did a really extensive review of alot of cases down to the plans and the comments of variances that were getting by and , it needs significant review but we certainly don't want to lose what we have now and I think that these measures basically goes ways towards protecting what's already in our land development code. You know rather than, introducing anything rather new and sorting it out. It makes more sense for the applicants for the boards and commissions hear those cases and reduces the risks to the City being sued by a poor decision being made without proper legal guidance.

(TOVO) Thank you. I also want to thank Linda Guerrero not only did you serve on the task force but you were alot of the reason why we initiated the task force to begin with. Because of the research and the work you had done. To bring the attention, these issues to the attention of the city council. So thank you both for being the spirit behind the taskforce's origination and for also serving on it.

[09:13:30]

Cole: We definitely appreciate the work that you and ms. Guerrero did and i am a co-sponsor of this item and a lot of the things that you tell me in office made me convinced that it is time sensitive. The question I had is that did you have questions about this particular aspect and bringing it forward?

As far as the variance processes that was discussed along with a number of issues. And what appears I think from the last I looked at the resolution, that part of it came from what was a consensus recommendation, which as y'all know meant 100% of everybody present. The lake austin zoning i think we had consensus that it was a problem. Nobody seemed to like that the environmental protections were removed with rezoning. We couldn't agree that it should be in an overlay or what the mechanism should be to protect those environmental protections. So the recommendation basically stated that the rezoning from la is a problem that the city needs to address. Staff's opinion was it should have been done as an overlay. The people in pdr and stuff, they thought that made a lot of sense because of the zoning.

Mayor Leffingwell: Susana almanza. Scott johnson? Those are all the speakers that we have signed up to speak. Did you just sign up? You will have to give your name to the clerk. I don't see it on here now.

[09:15:49]

Thank you, mayor. I want to assure you that i don't think there's any run on up zoning cases. I know there's one la-sf 2 that are on the agenda today. There are two more in the hopper. The reason these upzoning cases have been filed is because the property was originally developed and originally platted when the zoning code in effect was a residential, which is the equivalent of sf-2. Property was developed under those rules in the late 60's, 70's. Those properties have reached the end of their useful life and they need to be torn down. What the problem -- the problem is that under the la rules, because the concept of net site area was introduced with the la ordinance, it's very limited impervious cover that is allowed. I don't think anybody has asked for setback from the lake of less than 25 feet. I think you will find that you will get better water quality from these rezoning cases than you have under existing conditions. There's development out there right now. On one of the ones that was postponed today, all that's allowed is 6,000 square feet of impervious cover, and there's a 300 long foot driveway that is required to get to the site. What is out there right now is three times that amount of impervious cover. So the reason that these cases are being brought as opposed to filing a 1704 vested rights case and asserting vested rights under original rules in place when the subdivision was done is because everyone is trying to work this out in a reasonable way with reasonable overlays. And in the cases that I've been involved insofar, the property owner has agreed to aggregate two lots to set back from the lake, to engage in reasonable overlays to protect water quality. I don't think there is consensus with the lake austin taskforce, and that there is considerable objection from a substantial number of the members on that taskforce to any restrictions on reasonable upzoning where appropriate. This is redevelopment of existing property. This is not creating more density on the lake. And I should point out that when these properties were zoned la they were already developed, already platted and they were conforming. What the city did is they adopted an ordinance that said

--

[09:18:51]

[ buzzer sounds ] we've got a minimum lot size now of one acre and legally platted lots that were not one acre were zoned la anyway. You didn't follow your own ordinance.

Mayor Leffingwell: That's your time.

You didn't follow your own ordinance. And in the process you made these properties nonconforming.

Mayor Leffingwell: Would you please sign up with the clerk and get your name on the speaker list? All right. So that's all the speakers that we have. I'll entertain a motion on item 75. Councilmember tovo.

Tovo: I move approval.

Mayor Leffingwell: Councilmember tovo moves approval. Seconded by councilmember morrison. Further discussion? All those in favor, signify by saying aye? Opposed say no? No. That passes on a vote of five to 1 with myself voting no and councilmember spelman off the dais. So now we had mentioned earlier today that it's four p.M. Time certain and we would ask for a time certain of seven p.M. For item 105. If there's no objection that will

be by unanimous consent. Item 105 will be set for 7:00 p.M. Or later. And let see. Let's go to. You're asking for a time certain on that?

The staff asked for seven. The neighborhood was asking for a time certain of eight.

[09:20:53]

Mayor Leffingwell: We'll set it after the seven p.M. Time certain. If there's no objection by unanimous consent that's set for 7:00 p.M. Or after. So that brings us to 94. I guess we're back to zoning.

Was for fmsvo and prohibiting access to those two streets and also limiting trips to 2,000 per day. This case is ready for all three readings.

Mayor.

Mayor Leffingwell: You have a question for staff? Council member morrison.

Morrison: I was trying to look at the zoning around it. Could you put up the zoning map where we can see the surrounding? Because I am seeing that looks like a lot of fs6 here but I am only seeing 3lo

-- maybe I am missing that. Like behind it is ff

--

[09:23:08]

yes, council member, the areas to the south, that is a planned unit development. It does look like it could possibly be an sf3 based district within that planning unit development and there are also planning unit developments to the north that cross spicewood springs north to the east and also planned unit developments. The ones to the north and the east look like they could be sf6 with the district base street zoning but I am not sure what nose entitlements are.

Morrison: I am not seeing planning and development to the south. Would that just be the zoning cases?

That would be the zoning, the zoning to the south. I can see there is a c814 case number and that would indicate a pud, the zoning for me.

Morrison: I understand. So those are single family?

Those are single family residences that take access to private streets.

Morrison: Okay. Thank you.

Riley: Mayor.

Mayor Leffingwell: Council member riley.

Riley: I want to ask you about the development to the south. I visited it there this weekend and see it is a gated community with the private streets. It looks like a permanent condition. Is that accurate? Is it fair to assume that

-- that those

-- that that will remain a gated community with private streets permanently?

Yes.

Riley: Okay.

Are we ready for presentation from the applicant?

Yes, the applicant is here.

State your name.

I will be happy to answer any questions or go ahead and go into the presentation which I have prepared, which ever you prepare.

[09:25:08]

Mayor Leffingwell: We'd prefer just to answer questions. Make whatever presentation you want and

--

sure, sure.

Morrison: Mayor, if i could.

Mayor Ieffingwell: Council member morrison.

Morrison: I had expressed an interest and some concerns about this case so maybe I will just share those with you and we can talk about those and unless you would like

-- obviously if you would like to give an overview to the council

--

I can give a quick overview, I don't want to do anything that was already

--

mayor Ieffingwell: This was last

-- last meeting, this was proposed for consent and council member morrison was the person who had objections, so you want to address her quick questions, that would be a quick way do it.

If I can get a few minutes of stuff. As ms. Reyes mentioned we are planning to build homes on 2.4-acres which we are getting from the current owner. And he will retain 3-acres for his private estate. Those 13 homes actually are less density than what sf3 was kind of laid out. In our estimations, you maximize it to 3, you would be somewhere in the 15 unit, 15 home range, so we are planning on developing a property that is less than and we are asking sf6 and the reason we are requesting that is because it is a heavily wooded area. We want to be as sensitive to the trees that are there as possible. It also allows us to be a little more creative with the design, but it's strictly a design reason we are asking for sf6. Another thing I want to note is from the very beginning, we have been working very closely with the zoning staff as well as the neighborhood association northwest austin civic association and the hoa that was immediately adjacent to our property and we've gone to every length to make sure that everybody's concerns are addressed. The conditional overlay that is part of the zoning is to answer that very request that the hoa had which was they wanted to prohibit access. We understood

-- prohibit access. We understood the request and agree with it. I believe there is a group of hoa members who are here to speak on behalf and also on favor. Let them speak. But we have worked very closely with the community members to try to develop a plan that's very attractive and that, you know, meet addresses everybody's concerns and I would like to see we are in the desired development zone. We are building homes for families in a highly sought after area of austin and even though you didn't see sf6 immediately right there in the map, there is a great diversity of prototype there and we believe there are products that would fit within the diversity and be the fabric of the neighborhood.

[09:28:17]

Mayor Ieffingwell: Thank you.

Morrison: Mayor.

Mayor Ieffingwell: Council member morrison.

Morrison: Maybe I can go ahead and ask you a few questions and let you know the concerns that have been raised which I think have been shared with you. I was reading in the backup

-- first I noticed several nearby neighborhoods did send in objections and said they sent in responses and said they opposed. I am not sure if you got a chance to receive those.

We did not review those and city staff didn't bring them to our attention.

Morrison: There were fine of them, if I caught it correctly, and I believe I might be getting mixed up

-- no, this is the one and the neighborhood association took no position on it. They didn't oppose. They didn't support.

Right. Right.

Morrison: There was a differing of opinion here. The two things that caught my eye in the backup, one, which I think is going to be the easy one, there was a comment by staff that it wasn't clear whether or not there was going to be any grandfathering claim for our quality standards, or whether there were any previous rights, and so the question is -- that I had was, do you plan to adhere to current water quality standards.

I believe so.

Morrison: Great. Okay. So that's good. The other thing is that the report mentions that the property is located within the boundaries of the Barton Creek contributing zone and then it goes down to, quote Austin to say that the concept map not only guides where Austin will accommodate new residents but reflect it is community intent -- this is the important part

-- to direct growth away from environmentally sensitive areas, including but not limited to, the recharge and contributing zones of the barton springs segment of the edwards aquifer, so if we are in that section, that is why it seemed a little bit inconsistent and it raised some concerns for me so I started wondering about the impervious cover. I understand that sf6 can be good for allowing clustering when you are going to be putting  
-- even if you aren't going to be doing higher density, from what you would have with sf3, but it does allow for a higher impervious cover and so my thought was that we would be able to still maintain the protection of not too much impervious cover, achieve some of the goals that were mentioned and the folks that opposed it by maintaining an an impervious cover of 45% which is sf3 which is the entitled right that you have but still allow you to go to sf6. So can you comment on the issue of impervious cover and why you are not comfortable with that?

[09:31:18]

Sure, sure. I also would like to say we understand your concerns completely. The reason we postponed last week is because we wanted to understand those concerns better. We met with city staff, with watershed staff to try to understand that and what has been explained to us, their determination is that, while it is in the edwards recharge zone

-- edwards aquifer recharge zone, it is not north portion of the recharge zone which does not drain into barton springs watershed but into shoal creek and the only reason for impervious cover is it matches the base zoning that the property is entitled to.

Morrison: That's not my issue. My issue is that more impervious cover is still taking away open space and, yes, it doesn't go into the part

-- that part of the aquifer. It still goes into our lake and so you are still going to get detrimental effects.

I understand the concern, but like I said, we are limiting our density to the level that would have the minimal impact and, therefore, we just don't feel, in our discussions with city staff, we don't feel that that

-- the recharge zone would be impacted, and, therefore, we don't see why we would

-- it would be necessary for us to agree to anything less than the required base zoning allows, and in looking at  
-- at some of the other

-- in looking at some of the other properties adjacent to us, you've got

-- as you mentioned, you've got lo zoning, you have cs zonings, all of this

-- maybe not cs

-- let's see, the map is right here. You've got multiple lo zonings adjacent to us, all with 70 plus impervious cover and so we feel that, you know, limiting ourselves to 35 would just be

-- we don't feel it's a necessary request, and I discussed it with city staff. It's not something that would have that level of impact. We just don't understand the logic for agreeing to that.

[09:33:33]

Morrison: Well, and if you look at the opposition from some of the neighbors, too, they mention

-- I mean, they are concerned about just the development of this propert

-- development of property in all and part of it is with regard to the traffic it would generate and I understand, you are saying it would not be any more dwelling units than it would be under sf3, so that might not really be an impact, but the other thing is about open space, which, then, is going to be tied to impervious cover so I think that it reflects some of those concerns, also.

Okay.

Morrison: That's why i am

-- is

--

mayor leffingwell: We have more speakers.

Morrison: Right. And so I was going to say i did get a letter from mr. Coalman that I have some specific questions about and so maybe we will wait until he gets up

--

mayor leffingwell: You did say desired

-- this is under the desired development zone, didn't you?

Yes.

Mayor leffingwell: Thank you. Glenn coleman.

[Indiscernible]

mayor leffingwell: Any questions for mr. Coleman?

Morrison: I do. Thank you.

Mayor leffingwell: Council member morrison.

Morrison: So there is an issue here where you are actually

-- is it the whole

-- the whole piece of land that's being up zoned here?

Yes, ma'am.

Morrison: The request is for the whole piece of land. You all are only planning on developing part of it right now?

Correct.

Morrison: And then later, an elderly gentleman has a

--

correct and it's one of the reasons that we specifically are requesting the 55%, is that as we develop, we want to be careful not to gobble up respectively his future development rights or his escapes.

Mori DON'T Understand what that means. He is at 45% right now.

He is at 45% right now so if he chooses to develop further

-- because it is one site plan, we have to be sensitive to the fact that it could impact his future development rights.

[09:35:39]

If you have 55% and he's

-- what percent are you going to use on your land?

I can't tell you what percent we could use on the land right now.

Morrison: Because if it's 45, you both, you know, it's 45 across. If it's 55

-- I don't understand your statement, you have to be concerned about his future development rights?

We also are representing the owner here who would like 55% for himself and the estate.

Morrison: You both would like 55%. That's what I didn't understand and it was being

-- okay. The other statement you have in your letter, 50% in this, it says you are building a project one that will require relatively low density but one that will, therefore, require more amenities, larger footprints, more parking, long driveways. Can you explain that? Why a low density project requires more amenities?

Why a low density project requires more amenities? The developer desires to do a

-- well, for one thing to have more space between houses. I think that's part of what he meant when he said sidewalks and driveways. He wanted a lower density development, consistent more closer to the surrounding houses on mesa drive.

Morrison: The space between houses is not going to be on cement.

I would hope not. You can

-- I with ask the developer. I can't speak to that key. I was hoping to ask about the watershed that he and hi spoken about and those concerns. The specifics of the developer and how he is going to space those houses, that should probably leave to the developer.

Morrison: I was just trying to understand the need that you were arguing for needing the 55%.

I don't really think he is asserting he will need all of the 55%, council member, I kind of doubt that he would.

Since he has to file a single site plan that impervious cover declares itself at a fairly high rate. This is different from an sf3 where a dedicated easement would be dedicated to city and not count against his impervious cover and of course if the city expanded roadway or sidewalk, an impervious cover would be there but not necessarily visible to

-- to us as policymakers, so it may be very well be a wash in terms of impervious cover, that even going to sf6 would not necessarily in a fully developed site give you a fully developed at 55%. I seriously doubt that.  
[09:38:05]

Morrison: So that's a point maybe I could ask staff about and I am understanding you to say that effectively 45% under sf3 is the same as 55% under sf6 and I don't understand that at all. Could you

--

I wouldn't say I am equating them, but

-- but i have been told and I've always heard that

-- that a site plan based community will declare

-- the impervious cover will declare itself at an effective rate, more realistically and higher than sf3 subdivision because some things are dedicated to the city do not count as impervious cover. Don't know the science on that but that's something i often have been asserted to me.

Morrison: Maybe staff can help me understand. I thought impervious cover was impervious cover and if you are doing any internal roadways on the site, you have to count them no matter what.

Yes, yes and in the impervious cover is all hardscape. It includes buildings, footprints, driveways, sidewalks. And that will all be accounted for on the site plan.

So if a

-- if a developer dedicated a right-of-way, a sidewalk right-of-way, okay, just dedicated an sf3 subdivision and dedicate to the city

-- my question would be and dedicated that, city, when you expand your streets, sidewalks, whatever, this is yours, we can dedicate that or it can be an easement, would that count against impervious cover, I guess would be ...

If it's within your property, then, yes.

Okay.

Morrison: Okay. Thank you.

The developer asserted 55% is needed. It is appropriate with the density in the area, the property owner asserted and because this is in the northern section and watershed staff might be your better resource for this, but because there is enormous section of the recharge zone, it is not an area draining into barton springs, on the surface level it would describe in show creek and there a subterranean level and we may want to ask watershed staff this, would not be impacting the aquifer that inertia and feeds barton creek area and other sensitive areas.  
[09:40:23]

Morrison: Thank you.

Mayor leffingwell: The next speaker is darlin cartright.

Morrison: Thank you.

Good afternoon, I am dolin cartright and president of the mesa forest homeowners association. I didn't know if you may have questions for me. I have a few comments. The city staff has done a very good job in working with the developer in our opinion, of kind of watching literally the back side of our homeowner

-- or our ourpud, I guess of planned unit development, I guess they call them that, our density in our neighborhood is between 5 and 6 per acre and so the densities that beingtion shown to us in these site plans is -- the

-- being shown to us in this site plan is fine, and so, in fact, we are happy we didn't get a request for some light commercial, frankly, on that land tract. So we are pleased with this and the conditional overlays that the staff has recommended is just, for us, it is a godsend. We are thrilled. So I will be happy to ask any other questions but our homeowners are happy.

Mayor leffingwell: Thank you.

Okay.

Mayor leffingwell: That's all the speakers that we have signed up. So item 94 is ready for all three readings.

Mayor.

Mayor leffingwell: Entertain a motion.

Mayor.

Mayor leffingwell: Mayor pro tem cole.

Cole: I would like to move approval on item number 94, with the recognition that it has the water quality protections and sf6 is the base zoning that allows t 55% impervious cover.

Mayor pro tem cole makes a motion to close the public hearing and approve item 94 on all three readings. All in favor of the motion.

[09:42:34]

Morrison: Mayor?

Mayor leffingwell: Council member morrison.

Morrison: Is there a sec, I missed that.

Mayor leffingwell: Second by council member martinez.

Morrison: I would like to ask the maker of the motion, are you putting on there a condition that they do this by water quality standards, they are required to?

Yes.

Morrison: Would you

-- you probably wouldn't. I do believe that with the concerns that have been raised, that having

-- from the folks that wrote in and all, having the additional impervious cover should not be considered as an reasonable increase in rights so I would like to make a

-- I guess I will go ahead and make a

-- propose an amendment that we limit the impervious cover to 45%.

Cole: And to consider that trendily.

Morrison: Right.

Mayor leffingwell: Motion for amendment by council member morrison to limit impervious cover to 45%. Is there a second for that? Seconded by council member tovo. Did you want to say something.

Martinez: Thank you, mayor.

Thank you, mayor. I want to understand both of the conditions being added

-- are you wanting those incorporated in the ordinance as conditional overlays? And I

--

I agree to water quality protection but not the amendment that was made.

Mayor leffingwell: We are getting ready to vote on the amendment.

Okay.

Mayor leffingwell: So

-- I am not going to support the amendment, either. All in favor, say aye. Opposed say no. No. I believe that was

-- council member riley, how did you vote?

Riley: [Indiscernible]

mayor leffingwell: So council member martinez, myself, and mayor pro tem cole voted no. So that motion

-- that amendment fails on a vote of 3-3. So we are back to the main motion. All in favor say aye. Aye. Opposed say no?

[09:44:47]

Morrison: No.

Mayor leffingwell: So that passes on first reading only, on a vote of 4-2, with council member spelman off the dais. That was first reading only because we only got four votes.

Yes, I understand and i will bring it back for second and third reading. The next item is item number 96, and that's c14-2013-0034, ross conley lot 1, llp. This is property located at 3443

-- north land drive and it is zoned lr, commercial and requested zoning is gr, community commercial. This property is currently developed with a service station and a food sales use, being a convenient store. It is located along an arterial road and a collector street b northland drive. The purpose of the gr district is a broad set of commercial uses and this property is also within the low density hill country corridor so it will have a floor to air ratio as well as limited height. The zoning and planning commission forwarded this case without a recommendation. There were two motions on it. One was to deny the staff's recommendation from gr-co, hence living it lr. The second recommendation was to allow for gr-co. However, prohibit the service station use. There is a petition that has just been passed out on the dais and the petition, which was recalculated this afternoon, stands at 19.28%. The applicant is here and also interested neighborhoods.

Mayor leffingwell: So it is not a valid petition?

[09:46:48]

It is not a valid petition. At this time.

Mayor leffingwell: Okay. So we will hear from the applicant. If there are no questions of staff.

Mayor, mayor pro tem, council members, ron thorough, representing the landowner of the property. I am passing out a handout and I will walk you through it on the screening. What we are requesting is gr zoning on a property that is already zoned for lr, and with that, we have, under existing conditions, we have lr zoning and a 25-foot setback on one street and a 15-foot setback on another. Currently there is encroachments inside of the setbacks so the improvements were there prior to the zoning being in place that is there today. The area of setbacks takes up a little over 7,000 square feet which leaves 7,000 square feet for building on this property. It doesn't mean that will be the entire building area of the property but that's the envelope of where a building can be placed. The height of the property is governed under hill country roadway at 28 feet. Currently the property is almost 100% impervious cover and the uses of the property are governed lr zoning district. We are proposing gr zoning one step up in the categories with ten foot set back on northland and 10-foot set back on park crest and it opens it up an area for a building to be placed up to 10,000 square feet. Again, it is not a building of 10,000 square feet but it is the envelope, so it pushes the setbacks out and creates a buildable area on this triangle piece of paper, and with the regulations, 90% impervious coverage and we agree to lr uses and so it is exactly as today and gone further and said there will never be a drive through use on this property. So with that, there is a site plan on the back side of what I provided to you. What we have is the lr set backs which are shown in red and the gr setbacks which are shown in blue and i believe that what we are trying to do here, again, is open up if buildable part of the property. Not trying import obnoxious gr uses for this site at all. Trying to provide a buildable envelope on this property so we can put a more conveniently scaled guess pump and convenience store operations on this property. It won't have a significant increase in traffics that going to be generated. A lot of traffic is going to be passed by traffic. I think it is extremely important to note, in this is the only gas station -- if it comes to fruition, this is the only gas station on this side of the road from highway 620 to north lamar. That is a long stretch of road where you are going to force everybody to hang a left and to get into another gas station and force everybody else to get back in the lane traffic and it's that left-handed turning movement which is causing a lot of problems at the northland and balcones and mopac intersection and with this gas station on this side of the road, we think it's going to alleviate a lot of these situations. What we are going to be doing here is making it safer. I also want to point out if you look at your zoning map, you may think this site is not appropriate for gr zoning but look at the zoning map and directly across parkcrest is gr zoning sd and cs zoning today, also, and I believe this site is appropriate for a convenience store with gas pumps and the gr zoning is going to help make it possible to bring a current use to this property, rather than trying to rehab the existing uses that are on the property today and have failed twice already. With that, I will anxious any questions that you have -- I will answer any questions that you have.

[09:50:54]

Mayor leffingwell: Questions for the applicant? So we will go to the speakers in favor. Matt hooks. Three minutes.

Thank you, I am matt hooks, born in austin. I was raised in austin. I have raised my children here. I have driven by this site many times, probably the past year and a half. It has been vacant and unoccupied and I had a vision to do something here different than what has been there today. I think the neighborhood deserves something better and I think the site deserves something better. I am willing to redevelop this site to current standards. I would like this site to be an austin green energy project including utilizing solar. I don't think there is very many fuel stores or fuel stations in austin that could have that. I think this could be a poster child for that, a place where people could go and say, how has it been done in the past. If you believe in a dense and compact city, this is the type of project that we should all be encouraging and approving. I appreciate your time. Thank you.

Mayor leffingwell: Thank you. Those are all of the speakers I have signed up in favor. So we will go to those opposed. Noah edgar.

[Indiscernible]

mayor leffingwell: You may. Just ... Do you want to come up first? Just -- why don't you come up first. Give me your name when you come up.

[Indiscernible]

mayor leffingwell: We can't hear you back there, so just come on down. It's kind of a rule we have to speak to be the record. That means you have to speak on the microphone.

[Indiscernible - no mic]

[09:52:57]

mayor leffingwell: I will give you a reasonable amount of time. Either podium. Over here. I think three people have donated time to me and i really only need

--

mayor leffingwell: What is your name.

Phyllis warner.

Mayor leffingwell: Okay. [Multiple voices]

and I think

--

mayor leffingwell: Yes

--

mayor leffingwell: Ma'am, wait just a minute.

Okay.

Mayor leffingwell: Mel

-- is mel here? Susan sternberg? Here. Alfonso nege. That's you? So you have up to 12 minutes.

I don't

-- I need to be able to be at the map. It's not on.

Mayor leffingwell: You want to point at the map or what?

I want to be able to show you things on the map.

Mayor leffingwell: He can put the map on the screen.

Yeah.

[Indiscernible]

Tovo: I think she was saying she wanted to be able to point as she was talking.

Can y ming me pointing or do I have to turn around.

Mayor leffingwell: Use your handheld mic to your right hand. Can you turn that on for her?

Okay. Great. My name is phyllis warren. I am a resident of highland hills and one of now 100 people who have signed the petition against this zoning change, exactly at 65 and since then we have another 45. The site is zoned lr for a reason, meaning that lr zoning is compatible in scale and appearance with single family neighborhoods looking directly across northland and parkcrest from the site and there should be compelling reasons to change it from lr to gr-co with the conditional overlay that has been recommended. But there are none and there are many reasons to oppose it. The first is

-- and I am trying to focus on zoning

-- we have to talk about zoning but the truth is that this is not at the intersection of two major roadways and I know that that was a major reason why the staff recommended gr zoning for this site. When I called the staff member and I said why did you recommend it? And they said, well, it is an intersection with two major roadways. I want to show you it's not. If you

-- let's see

-- the orientation is a little weird. If you look at the label here for fm2222, it looks like parkcrest is the continuation of 2222, when actually northland is 2222 and parkcrest is a street that's only one block long and it is a little neighborhood collector street. So the staff went back and changed it in the recommendation but they didn't address the problem of having the proper infrastructure for gr zoning, and if you look at the map, the request is for gr zoning here and there is gr zoning already at the corner. Now, the gr zoning at the corner, and also only of the other intense zoning categories are much higher than the actual use of those sites. And that is a function of when these properties were zoned. Originally, the

-- the zoning ordinance was a lot more simple and so it's something with commercial over the years, each time there was a zoning change, there was more categories added and the zoning would bump up to a higher level and, for instance, we had lo which was office height first area before there was an no and first height converted over to lo instead of no and that happened here, and so with the gr across the street that the applicant referred to is actually office building and the cs is also an office building. It's not

-- these are not

-- those are not the intensities that they show. The gr here is prosperity bank which is really an lr use and the cs1 and the gr are shown to be a restaurant. And the others

-- there is no other rest

-- excuse me. I am not a good speaker, I am sorry. That there is not gas station is [indiscernible] this has been a gas station that has been around here for year. So the first

-- it is not an intersection but two major roadways. The second is that it's not compatible or complimentary in still or appearance with the [indiscernible] deep affliction in all of

-- lots of highland hills and it is not compatible with the residential use in zoning of highland park west. I am not aware

-- I live in highland so I am not sure of their deed restrictions

-- their deed restrictions

-- deed restrictions

-- and the proposed use of the convenience store was the double the existing building with double the number of pumps and a lighted canopy over all of them and that will be visually intrusive for residential property risk roofs

-- residential property roofs which are directly across the street. The current use of the gas stations that certainly allowed in lr, but the scale will be more complimentary and suitable for a residential

-- for residential. And I should point out that highlands is a very large neighborhoods and highland park west is a pretty back neighborhood and all

-- all of the way out to 360 is pretty much residential except at mesa and there is a convenience store at dry creek, but this is the beginning of a very big residential area. It is also the beginning

-- highland hills drive is the start of the hill country roadway corridor and if this site were an undeveloped site

-- and it has been vacant for a year and a half according to the applicant, I checked and some of the

-- the setback requirements would be a little different

-- not the setback but

-- I am getting off track. If this were an undeveloped property, the hill country roadway would require 25-foot setbacks, and it has been developed but if this

-- through this lr, there would be a 25-foot setback. The whole idea of austin being a beautiful city, when you come up the hill

-- this is the gas station with 8 pumps you are going to see and a big canopy that's lit and not the kind of vegetation we could have if you have a 25-foot setback, which is also much more compatible with the residents across the street. These two properties, the prosperity bank and here in

-- and this small animal hospital are really lovely uses for

-- in terms of compatibility. They are nicely landscaped. There is a huge tree in front of them. Usability and the neighborhood association, they tried to put a drive through car wash through there and we fought it and are very

happy with the solution and we know that this is a business and we know that that whole plan was commercial but we would like to

-- we would like to have it be compatible with our neighborhood. Next reason is gr zoning is not fatble with the nearby uses apparent with the zoning because of the

-- compatible

-- because of the existing uses, because of the

-- what I just discussed about the zoning ordinance at the time that the city uses were built. And so, for instance, this gr is actually condos. The cs is part of a very nice

-- the junior league shopping center is right next to the offices and that's very compatible with the single family residences in the area. So the staff's recommendation was based on the intersection of two major archways, which there is not and another

-- another important statement in their justification for this is that it was consistent with the imagine austin objectives which it really is not. The imagine austin objectives were much more consistent with lr zoning than with gr. For instance, the

-- the overall goal of achieving complete community across austin with

-- with

-- with integrated uses for the neighborhood and the commercial uses, our neighborhood already has two 24/hour convenient stores that are one block away. We have a randall's supermarket that's open until 1:00 a.m. We have a liquor stores that open until 10:00 p.m. I think even if it is a high end convenience store, that people are going to choose to go there rather than some of these others places that are already there. This is something that is supposed to be serving

-- and you can see from the applicants' presentation that if the traffic coming in, that they are talking about and we would like to have this ultimately, this is going to be developed

-- redeveloped, we know, but we would like to have some say in how that gets redevelop and if you make this gr and this gr, this is going to be gr and we are not going to have

-- we are not going to have the kind of say we would like to have in a more integrated kind of development that would be more consistent with the kind of tbttive that would be encompassed with a comprehensive plan when it is developed. Finally we have a serious trouble with traffic and i am saying that last because others I know will address this. This is highland hills drive, the major collector street for the subdivision which is a large subdivision. It doesn't have a traffic light and so exiting highland hills drive is difficult at peak times, in the morning and afternoon and there has been a lot of work along balcones and there is a free right turn at red and now there is a light here at the corner and the traffic backs up heard and it is extremely hard to get out. The only other exit is for people who live in most of highland hills is this highland hills circle and this is the top of a hill, and if you -- even if you try to get out during the day, it is dangerous there, because there is limited sight distance. You can't turn

-- you can't turn to the left and so this is a really serious problem and there is no solution to that problem that's simple. We have [indiscernible] and so we are

-- we are very concerned about anything that changes the amount of traffic or the

-- the traffic flow in

-- in that section of 2222 and northland and there is going to be construction to the west and 2222 is not going to be widened because the state has chosen not to do that. And then the persons who speaking for highland parks west will talk about their problems with that intersection as well. So, in conclusion, we strongly believe and urge you to agree with us, that the proper zoning for this is lr and not gr and someone asked, well, you have gr uses excluded, but really, it is the site

-- having expanded

-- having expanded

-- having the less

-- the more permissive site development standards in gr over lr is going to really be adverse to the interest of our neighborhood. Also, on the site plan

-- i don't know if I should tell you this.

[10:06:55]

-- (Buzzer alarming).

I have a couple of questions from you. I live a couple of blocks from there and I am well familiar and I agree with you, traffic is a major problem, especially on 2222 and I respectfully disagree with you that park land is not a major road. It is the cut through road on people coming through 2222 and park land and cut through balcones and balcones is a cut through.

But balcones is a neighborhood south of hancock. Balcones is a really residential street.

Mayor leffingwell: I live off balcones and I also notice a heavily used residential street.

But because the traffic is so terrible, right, and the more

--

mayor leffingwell: The traffic is so terrible on mopac. That's the

-- sorry, i brought it up. The only other question is is

--

but is it a major arterial. Does it meet the

--

mayor leffingwell: That is an official designation and I have to assume that staff

-- they have maps that show the major arterial roads and if it is designated major arterial. It says you may disagree with the designation.

I am not disagreeing. I am saying the designation is actually a collector's street.

Mayor leffingwell: The other thing is

-- of course I am well familiar with that intersection, too. It seems like it's almost 100%

-- it has been an convenience store and gas station for a long time. It is not operating now, i know, but it is about 100% impervious cover now, so it seems like the request is just to be able to add more pumps. But I just wanted to make that clear, that this is not a green field that is being developed here or a place that has a green setback that is going to be eliminated. It is a gas station now. It is a fully paved area.

[10:09:02]

Would you mind if I make a comment?

Mayor leffingwell: Go ahead.

We believe for a very long time and I believe burnet road is basically one impervious cover and now with landscape ordinances and there are some very lovely medians and it looks more attractive, just because it has been impervious cover all of these years doesn't mean that it couldn't be something better and I don't think it's unreasonable to

-- to have the kinds of setbacks.

Mayor leffingwell: I understand, thank you.

So it is consistent with the beautification objectives of the

--

mayor leffingwell: Okay. Who is the next person that wants to speak in opposition?

David warner.

Mayor leffingwell: Come on up.

[Indiscernible]

mayor leffingwell: No, she used all of her minutes.

[Indiscernible]

I did not. Somebody else want to donate 3 minutes to david? So what is your name?

Richard [indiscernible]

professor: Okay. Rich.

Mayor leffingwell: Okay. He has 6 minutes.

Thank you very much. I would like to raise some additional points. First, if you look at that map along the side, you see that this property is owned by rob conley or was and that jack brown right below it is owned by ross conley partners and then the next two below are owned by the mccarty triangle llp, which also appear to be ross conley, because ross represents those two and conley represents these two and they are out of the same post

office box in colorado. It is interesting to see the letters of support they both wrote, that the main point for them was the gr was a 10-foot setback and it seems to be clear that this is not going to be a gas station, a convenience store in the long run. That there is going to be some major development on all of this property they control or at least it's reasonable to suppose that, and what the

-- what the council is doing now by giving the gr is substantially reducing your ability to monitor what will ultimately go on this tract. The second point I want to make is that the traffic really problematic for us and other people talked about. A third

-- and a third point is other impacts, which other people have talked to, but the other big thing i wanted to speak to is 2222, and currently there is about 30,000 trips at that intersection per day according to the

-- the

-- the highway department data, which

-- and this is kind of an average from 2007 to the most recent as 2011. It

-- and that is very significant. It really is a place where extra development will be a problem. Now, I received an email from brian tomtom who is the president of the steiner ranch neighborhood association and it wasn't really until I made this presentation a week ago tuesday that it occurred to me that there are a lot of people at interest here who are not just in the local neighborhood, that there is really 50 to 100,000 people possibly and more in the future depend on 2222. At some time as their way to the lake and to their houses or into town. And this intersection is a key

-- is a key point, and so brian got back to me, just a couple of hours ago, and sent you

-- he sent me a copy of the email he sent to you. And he said, regarding the proposal the changes of the zoning of 3347 northland from lr to gr, the steiner ranch neighborhood association would like to raise objection to the negative impact such a change may have for traffic on fm2222. Fm2222 is a critical east west arterial roadway in west austin with no practical means to add additional capacity across the bccp and through the hills on the west side of austin, I must treat each of these arterial roadways as a precious resource. Fm2222 in particular, due to topographical constraints is not planned for future widening and therefore, we must be extra sensitive to any negative, immediate or enabling negative impacts to traffic flow. The property under consideration lies directly along the primary route for traffic from westerly neighborhoods, eg620 toward central austin. Any additional development directly along fm2222 that may impede the critical traffic flow shall be avoided. This commercial property sits directly along fm2222 at least two points of access and a section of roadway that sees frequent congestion, especially during rush hour. This roadway segment is in fact a point with existing wait times to access loop one and the existing commercial zoning will allow for additional impediments to this already critical traffic flow, with little recourse to correct problems once development has taken place. Thanks for appreciating a critical requirement of proactively managing our future congestion challenges. Best regards, brian, chairman, steiner ranch neighborhood association, and now, in addition to that, there is going to be an exit from the toll lane on mopac, I believe, at 2222, so there will be additional

-- possibly additional impact on the entrance of there. Further, there is serious problems getting through this intersection for ems and fire. And there is at least someone

-- someone said on average about four trips a day going west and generally coming back on an emergency basis, plus other emergencies that may be taken care of by ems because there is an ems station on balcones. Other ems stations that are further west that need to come in to brackenridge or seton or saint david's, so further development here can have a negative impact of that kind as well. And the

-- well, I think those are the major issues and I really think it's a serious

-- oh, one other thing, when people are coming up

-- [buzzer alarming] on 2222, they are fighting to get to the right to get into mopac.

[10:16:25]

Mayor Jefferingwell: Okay. Thank you. That was your time.

I know.

Mayor Jefferingwell: Next.

Questions.

Tovo: Mayor

--

mayor leffingwell: Council member tovo.

Tovo: What happens when people are coming up and heading to mopac, I think you were just ...

The problem is

-- given they have taken a lot

-- you will see that the line on the right is way longer than in line on

-- than the line on the left and there are people trying to get in. It used to be people from our street would try to get into the right

-- the right. That's become impossible. We almost always have to go up through the light and down parkcrest or down balcones or back down 2222, but because of this, it seems to me that people who just want to stop at the convenience store and come back out from a convenience store are going to do nothing but slow that process down. And they have a right to have a certain height but they are going to build something twice as big, it will have significantly more impact and I think that

-- that will make a very bad problem a much worse problem.

Tovo: Thank you.

Mayor leffingwell: One more speaker. Come on up. We are going to have to go on break after this speaker, and we will continue the case after our break. You have three minutes.

My name is denise tucker and I was hoping to point to the map but I guess I can't see it unless I go over there, but I live

-- oh, o here it is. I live on this little piece of property right here. I currently don't live there but hope to move back some day. I am an educator, I can never afford to move back in here. I bought it in the '80s. I want to talk about three things. I thought about how it affected the public, in general, which you heard and the traffic is my major concern. Safety is my major concern. Not going to increase traffic. It is going to increase congestion that's already a big problem. Let me talk about how it affects the general neighborhood and especially close-by neighborhoods and me personally. The public

-- right now a lot of people

-- i personally saw an accident go left here. Intend to go right, I often will make a u-turn if I can because there is maybe a little bit of space between cars, because, you know, there is not as much traffic coming out here, especially since it had been closed. It had four pumps. With 8 pumps, I can't imagine people in and out. There is no way

-- I mean, we would have to go right and then go around this way and go around this way, but sometimes I am lazy and i will try to do it and it is not safe. I have had an accident but actually trying to go left out of there, not doing the little u-turns but it is very, very difficult and there is no way to get out of that neighborhood. That is my major concern. It also is major concerns for pedestrians, the variance setbacks, I am a little concerned with. Not concerned with the gas station. I am concerned with the setbacks that are going to be made and being increased to 8 pumps. Also about the increase in lighting. The setbacks, as a pedestrian I have been hit walking my dog, not in this area but in austin and it happens but if we want to have a dense city we have a people and bike friendly city. You don't have bikes here and too many pedestrians but when you make left space for people to walk and people to avoid people and traffic accidents, you will have more collisions and that's what that setback would probably do. Also, the lighting concern, I get very direct light from there, from the four pumps in my window at night. It is extreme little bright. I knew that when I bought the house, but 8 lights would be worse. They made no concession sessions. I know lighting can be diffused but there have been no concessions to turn or dim the light at night and i am not the only neighbor that would be affected by that. I wanted to say, also,

-- i guess the other thing is the home values. I worry about that. That's my retirement and everybody fights because they get environmental discount. Oh, commercial, commercial. I didn't buy it there to be in a commercial place. I bought it there because i liked the neighborhood. It was the cheapest house on the block and it is the only way I will ever get back into this neighborhood in the future. I beg you to think of the public at large. I didn't know about steiner ranch neighborhood associations and we brought it up but I can certainly see it affects thousands of people. Not just me.

[10:21:28]

[Buzzer alarming]

mayor leffingwell: Thank you. That brings us to 5:30, live music and proclamations. We will leave this item on the table. We won't be able to finish it and we will lay it on the table. We will also, without objection, go into recess until play 6:45.

Cole: Joining us today is shivery shakes, founded in 2011 by william gluke, shivery shake is best described as a mix of the rock band and the oh so cool field of roy orbison. The band is made up of gospel and guitar, marcus hayden on drums, an drew on base and jack on guitar. Shivery shakes released an ep in march of 2012 and will be releasing two new songs on a seven-inch flex si disk with the help of putnam press in brooklyn late this summer. The band is also currently working on their first full length album. Please help me welcome shivery shakes.

[Applause].  
[10:27:26]

Cole: Okay. Where is your next performance?  
We're recording at (indiscernible) tomorrow night?  
Where is that?  
On east sixth street.

Cole: If someone wants to get some of your music, what do they do?  
But it's on shivery shakes band camp.Com or you can find us on facebook or itunes.

Cole: [Inaudible]. ... Is blessed with many talented musicians that extends to nearly every must kel genre and our musical scene thrives thaws austin audiences support good music with legends, local favorites and newcomers alike. Whereas they are pleased to showcase and support our local artists. Now therefore i, lee leffingwell, mayor of the live music capitol, do here by proclaim, june 27th, 2013 as shivery shakes day. [Applause]. [Applause].

Cole: One thing that austin lives almost as much as its music is its parks. And today we are here to present a proclamation because (indiscernible) thank you, sarah. Be it known that whereas the citizens of austin love the 275 parks and more than 19,000 acres of parkland in our city and whereas the parks and recreation department offers citizens more than 203 miles of hike and bike trails for recreational activities and whereas the city offers aquatic opportunities at the more than 50 aquatic facilities in the park system, and the city's pools attract more than 500,000 visitors annually. And whereas the parks department hosts more than one million visitors with special events in the park and whereas the city offers programs for children and adults at the 20 recreation centers and the three senior citizens where senior citizens accept exceptional cultural and science nature programming. Now therefore i, lee leffingwell, mayor of the city of austin, do here by proclaim july 2013 as love my parks month.  
[10:30:27]

[Applause]. There you go. Do you want to say anything in.  
On behalf of the parks and recreation board and the parks and recreation department of the city of austin, I would like to thank you very much. And also say please come out enjoy our parks. It's beautiful there right now, and any neighborhood park is just sitting there waiting for you. Thank you.  
Cole: Come take a picture. [Applause].  
[10:33:20]

Mayor Leffingwell: Is she here, elizabeth? So it my privilege tonight to present a proclamation in honor of sno beach day. I'll read that in a minute. Elizabeth guleke, am i saying that right, is here to accept. And haven't I met you two folks before?  
[Inaudible].  
Mayor Leffingwell: Some of our local homegrown folks that make austin such a great place to be and go and buy things, things that are good to eat and otherwise. So this is kind of related to a program that my office began a few years ago when we were honoring the small business of the quarter. And that kind of dropped off and we

-- we went a few quarters without honoring any small businesses. So we're happy in a way that you're reviving that tradition. And I'm glad you're there, and glad you're helping to make austin a nicer place to live. So the proclamation reads, be it known that whereas elizabeth guleke's relationship with sno beach grew from being a young customer to being a long-time employee and culminated in her purchasing the trailer from owners don and connie powell in 2010, and whereas sno beach continues to be one of the most loved family establishments in austin and has enabled elizabeth to engage in many philanthropic pursuits. And whereas through change the world elizabeth takes all the change used to pay for the sno cones one month and donates to a local charity, young texans against cancer, helping hand home, bastrop fire relief, safeplace and glimmer of hope foundation have all benefitted. And whereas friday afternoons elizabeth spends time with her girls at helping hand home and has recently become a casa volunteer, (indiscernible) is a volunteer also. Now I lee leffingwell, mayor of the city of austin, texas, do here by recognize elizabeth guleke's contributions to our community and here by proclaim july 30th as sno beach day in austin. Congratulations, elizabeth.

[10:36:19]

[ Cheers and applause ] and this is all yours and you can say a couple of words if you would like.

Well, thank you very much. When y'all are going to the parks you can come get a sno cone before or after. And I just want to thank don and connie powell because they're the reason why sno beach started back in 1983, which is one of the original trailers that we all loved. It's because of them. So thank you for everything. This is for y'all too. [Applause].

Mayor Leffingwell: We'll take a picture over here. [Applause].

Mayor Leffingwell: So tonight we're going to proclaim wal-mart austin day in honor of a company that has come to austin and has contributed to our community in a lot of different ways. Of course, it's not just selling products in their stores, which we know they know very well how to do, but it's also about being a good citizen. It's about helping people. It's about making donations to charities in individual groups around the city of austin. And I want you to know that we appreciate what wal-mart does to make austin a better place to live. The proclamations reads, be it known that whereas wal-mart stores, sam's club and the wal-mart foundation's giving programs are focused on enabling people to access a better life and whereas wal-mart supports hunger relief organizations and fights hard to end hunger if all u.s. Families. Wal-mart stores, distribution centers and sam's club donated more than \$43 million

-- 43 million-pounds of food to texas food banks, and whereas wal-mart, sam's club and logistics associates volunteered more than 2.2 million hours in 2012, generating \$18 million for u.s. Nonprofits. And whereas wal-mart and wal-mart foundation giving in the last fiscal year topped one billion dollars in cash and in kind contributions around the world, and whereas through their generosity with more than \$86 million given to texas alone, wal-mart and wal-mart foundation have made a positive impact on our community, helping to build better lives for central texans. Now therefore i, lee leffingwell, mayor of the city of austin, texas do here by proclaim june 28th, 2013 as wal-mart in austin day. Thank you.

[10:40:17]

[Applause]. Now, I want to introduce

-- I don't have your name on there. Kelly. Go ahead.

Hi, I'm kelly durr and i wanted to thank you so much for recognizing wal-mart today. We are very excited when we hit the one billion dollar mark for national contributions. And just in central texas alone we were at nearly a million dollars. And certainly hope to grow that. We're very committed to the communities we serve and charitable contributions are one of the things that we love most about the company. And we also volunteer many hours, so we look forward

-- look forward to many more years to come working with your charitable organizations locally and then of course statewide, and hope to grow that-million-dollar number just in central texas this year. Thanks so much.

[Applause].

Mayor Leffingwell: I think all of us are keenly aware of the difficulties our servicemen face when they're on active duty halfway around the world in Iraq or Afghanistan or other places, but so many times we forget about the hardships they face after their military service, and they return home to Austin and other places. We have -- come on up here. We have an increasing number of folks, of veteran homeless folks here in Austin, and the city of Austin has been trying in a lot of ways to address the problem, but it involves help from other people too. So tonight we're pleased to have with us representatives of Green Doors, an independent landlords who have been instrumental in getting homeless veterans into homes. These landlords have been filling the gaps at the local level to make the HUD-voucher system a success. Many landlords have gone the extra mile by providing second chances to veterans with adverse rental and background histories. They've worked around financial issues to ensure that veterans have a place to stay. And I believe we have from Green Doors, representing Green Doors, Kristin Nolan is here with us today. They've provided transitional housing and case management to homeless veterans for more than 15 years. They have set aside apartments at their complex specifically for veterans. And they currently provide housing for 52 veterans and their families. Mark Delouche. Mark is an independent landlord who has been HUD's biggest partner in implementing the first model. He often allows veterans to move into their apartment whether there's any chance he will be paid for their occupancy. Landlord application event is coming up next month in July where all landlords involved in housing our homeless veterans will be recognized. And speaking of recognized, we have a proclamation. We have two proclamations. Same proclamation which I will only read once, reads be it known that whereas 120 homeless veterans living on the streets and shelters in central Texas will soon have a permanent place to call home. The central Texas council of governments and Austin Housing Authority receive federal grants for vouchers to place homeless veterans. And whereas our veterans have answered the call of duty. In return our nation has its own duty to help homeless men and women rejoin the communities they have given so much to protect. And whereas under the HUD program housing authorities provide rental assistance to homeless veterans on nearby VA medical centers, offer supportive services and case management, and whereas we're pleased to recognize the work of independent landlords and local nonprofits who have participated to provide housing for more than 400 veterans since 2008. Now therefore I, Lee Leffingwell, Mayor of the City of Austin, Texas, do hereby on JULY 11th, 2005 AS ENDING Veterans Homelessness Day in Austin, Texas. Congratulations to all of you and I have a proclamation. You get one, and Krista gets one. And would either of you like to say a couple of brief words?

[10:46:12]

All right. I'd like to thank the city for this honor. It's completely unexpected. We've had the fortune to be blessed with the property that we have, and from the very first we decided that it really wasn't our property, that it was God's property to do as he saw fit, and we just chose to answer the call. But with me today is my oldest tenant. Do you want to stand up? She's a little shy today. But 20 years ago she had been robbed at gun point right across the hall from the office, and it was my very first day managing that property. And I prayed that to whoever owned this property would change things. And little did I know that it was God's will for that to be me. And our kids are involved in our ministry, which owns and runs the property, and thereby guarantee that this will be a lasting entity for the next generation as well. In addition we've always kept our home open to the kids of the neighborhood who needed any help, all the different activities that don't necessarily fall under a certain criteria. And we're real proud to have the McCallum wrestlers here, my son and Lee and Rondell who all went to district, and these two went to state, but that has opened doors for them to go to college. Leah was going to be attending Lyndonwood on a wrestling scholarship now, but it's a great opportunity for him that we never foresaw, but just allowing ourselves to be open to whatever God's will was has blessed all of us. We would like to thank you for this recognition. Thank you very much. [Applause].

[10:48:15]

Good afternoon. Green Doors mission is to prevent and end homelessness in central Texas. And it is an honor that historically we have served veterans that have been homeless from the day we opened our doors. In over 20 years that's thousands of veterans. Last night we had about 150 in our programs throughout town. They live in

neighborhoods without signs and people don't know they're our property, but it's a pleasure to be part of that. Thank you, mayor leffingwell and thank you to the city for the continued support of our programs. If you would like to learn more about our organization, please go to [greendoors.Org](http://greendoors.Org). [Applause].

Morrison: I'm delighted to be here to recognize and congratulate, it's a partnership between the bank of america and communities in schools, and it's a fabulous opportunity, the bank of america sponsoring a program for students who are here with us today, area students, to get some wonderful opportunities and experience and at the same time bring a lot of energy and work to communities in schools to help them along. So I am going to start by reading a proclamation that I would like to be able to present to the bank of america folks. We have nikki and anne smith. And then we also have suki steinhouser here from the bank of america. So if I may, it says, be it known that whereas since 2004 bank of america has sponsored a nation-wide leadership program for high school juniors and seniors that provides them real world experience that will translate into long-term success. And whereas through the student leaders program young leaders are placed in paid internship positions with nonprofits where they gain valuable work experience as well as contribute to their local communities. And whereas a highlight of the summer is a week long leadership summit in our nation's capital where the 220 student leaders from across the nation receive additional leadership training, visit their state delegations and tour washington, d.C. And whereas we're pleased to recognize bank of america and their local nonprofit partner communities in schools for investing their time and money and preparing our next generation for leadership. Now therefore i, lee leffingwell, mayor of the city of austin, texas do here by proclaim summer 2013 as bank of america student leaders program days in austin, texas. So congratulations.

[10:52:05]

[Applause]. And would you all like to come say a few words, suki? And afterwards I have a certificate for all the students too.

Thank you, councilmember morrison and the city of austin. We're very, very proud of our students. We go through a very formal process for selecting. We had about 100 applications for this program this year, and we had to get it down to five. And this is the cream of the crop. And so we're very pleased to have chosen them. This is our seventh year of the program here in austin. And so this is our

-- this will make 35 students that have gone through the program. They start with an internship with communities in schools. They're actually doing that right now. And then we'll send them to washington, d.C. For a week of leadership training. And they'll get to tour the city and they'll get to meet their legislators while they're there. So this is just a really great experience for them. And we have a lot of programs here in austin and we put about a million dollars into those programs. But this is our favorite program. So thank you all and I'll turn it over to suki.

I have a lot of thank you's. First I have to thank these young people for choosing to live amazing lives working really hard in school and becoming incredibly accomplished at their very young ages, but also choosing to spend the summer in service. They applied to this program and knew that they would be working really hard, and they didn't really know that they were going to be doing craft days and camping out with little kids or camping for the first time in their lives, and they didn't know that they were going to be

-- they actually don't know that they're doing go to be cleaning out some supply closets later. But they come to us and do a tremendous job with research and data analysis, projects

-- all kinds of projects that help us be better at what we as communities in schools do. And that's to help young people to be successful in school and help us to live up to our belief that it's important to surround students with a community of support and empower them to stay in school and achieve in life. We don't want to see any kids dropping out, but it takes a whole community and these young people are

-- this is not even the first of many experiences that they're going to have in their lives. But we know that they're going to be helping us forever. Of course we have to thank bank of america, seven years running they have made this happen that we've had incredible young people come and help our students who may be struggling a little more to get that advantage and the attention that they need. And I also have to thank the city of austin. Who 92 in 1985 when the city of austin funded three cis campuses out in central austin to get the kind of supports that the communities in schools could provide that one day there would be 56 schools, and we're serving over 6,000 kids closely everyday, all school year and even in the summer. It's grown so much and it's grown because we have a community that cares and believes in our students and we show it by coming out and supporting. So anybody

who is watching, anybody in the audience, you can come and volunteer and be that special person in a kid's life. So I urge the community to continue to support communities in schools and our kids. Thanks.  
[10:55:21]

[Applause].

Morrison: Thank you, suki. And I want to mention we have eric metcalf here from communities in schools. And I had the opportunity that you all held an open house recently and I got to visit one of their programs and there was

-- the director from the national program who shared with me that the

-- it is a national program in many, many cities. That the austin program is recognized as absolutely top-notch in the nation. So we are very fortunate to have the folks that do the work here. And I didn't get to thank the students yet a i wanted to recognize you. But really the commitment and your willingness to participate in a program like this in preparation for

-- in adulthood that understands really contributing to the community, I thank you for that. So with that I do have

-- what I'm going to do, I have a certificate for each of you, and each of them say the same thing except for the name and the high school is different. So I'm going to read the full one first for richard chang that says, certificate of congratulations from the city of austin. The foundation of american democracy is based on good citizenship, which is established through education and community involvement. We are pleased to acknowledge richard chang, westwood high school, for having been selected as a bank of america student leader for 2013 through the program high school juniors and seniors already active and involved in their schools, have the opportunity to gain valuable work experience along with providing service to our central texas community through a paid internship with communities in schools. Student leaders also participate in a week long leadership summit in washington, d.C. We join bank of america in honoring our talented local student leaders via this certificate presented this 27th day of june in the year 2013, the city council of austin, texas, signed by mayor lee leffingwell, and then it also is undersigned by mayor pro tem sheryl cole and councilmembers riley, martinez, tovo, riley and spelman. Congratulations, richard.

[10:57:36]

[Applause]. And the next is for rachel brown. Congratulations, rachel. [Applause]. Rachel, I forgot to say your high school.

Mcneil high school.

Morrison: Mcneil high school. And we have ashley gomez with cedar ridge high school. [Applause]. And depa rajan, westwood high school. [Applause]. And last but not least we have eric poe with hendrickson high school.

[Applause].

[10:59:42]

All right, bobby, come on up here. Folks, we have one last item tonight.

[ Cheers and applause ] that's pretty awesome when you say bobby and get a roomful of applause. But that's what this man has done for so many people for so many years. Today is a bittersweet moment. In fact, everyone in our office is probably pretty sad. Bobby is happier than councilmember morrison and tovo asking austin energy questions about energy rates. [Applause]. For those of you who don't know, bobby has been in my office since day one. We've known each other for many years prior to that. He worked in the texas senate and when I ran for council he approached me and said if you

-- when you win I want to come work for you. And he's been here everyday since for seven years. And unfortunately when you have such great staff, one of the things that happens from time to time is they get recruited away from you because folks want good folks on their team. So bobby is going to become the general manager at transmission entertainment running music festivals, booking shows, basically doing what is his passion and his love, service to his community is certainly a passion and love, but music is also a big part of bobby's life as a local musician as well. I'm going to read a distinguished service award and then let bobby say a

few words, but I could talk for showers. I will just say that I love this man to death. Death. For the people who got to work with him you know how amazing he is. He is not replaceable. We're not even trying to replace bobby. We're going to keep calling him until he stops answering our phone calls.

[11:01:43]

[Applause]. So I want to present this distinguished service award to you, bobby. It reads that robert, bobby garza in recognition of the seven years of dedicated service as chief of staff to councilmember mike martinez, bobby worked on and advised of policy issues, but not drop boxes. That's an inside joke for our office. Sorry. His political acumen,, his ability to distill information and understandable concepts and his sense of humor were invaluable to our office. Bobby will be sorely missed by his colleagues and they wish him the best in his new endeavors. Austin is a better place because bobby garza served our city. This certificate is presented in acknowledgment and appreciation this 27th day of june in the year 2013. Of course it's signed by mayor leffingwell and bears the names of all the councilmembers. Bobby thank you so much.

I hate attention like this so I'll make it short. Thank you for making the last council meeting as painful as possible.

[Laughter] I've spent 15 years working for elected officials and I can say that my time here with mike and andy and laura have been the best of my professional career, and I am immensely grateful for the times that we have had and the camaraderie that we shared. I feel like they're all family for me and they're going to continue to be family, and everybody that I've got a chance to work with gives me a better understanding of why people enter public service because it's hard and it's complicated and it's complex, but everybody that I've come across has reminded me that there's a good intention behind all of that stuff and it's a reason why we do the work that we do. So I thank all of you for helping me remember that everyday. I'm not going far. So if any of you that have worked for an elected official know that you don't ever stop really working for them once you leave office, so I know that I will be around and I will be happy and willing to help however I can, especially for mike. You're like my brother. And I will do whatever I can to help you however and whenever you call. Just let me know.

[11:04:13]

[Applause]. S.

Martinez: So as a token of our appreciation, the music office has provided us with this austin guitar, and all of the staff here and councilmembers have signed it in a tribute to bobby. So may the music ring on, bob. Thank you. [Applause].

[11:07:36]

Good evening, my name is donna edgar. I do want to mention that the other speaker, he is an 88-year-old man who needed medication and had to return home. So I am it as far as it is concerned. This is a bit of a balance sheet, and I want to start by saying that I don't want to repeat the things that you've -- you've heard a lot of points made and I don't want to repeat that. I do bring a little bit of a different perspective, i believe, to the issue of traffic in that I live in the highland park west area, which is just south of 2222. So I have a different approach to that intersection. In the time frame before it was recently remodeled i have waited eight or nine minutes by the clock on my car to get a green light to go through that intersection. It's troublesome to put it mildly. Since the remodel it's different, but it's still not very good. We have trigger happy cameras controlling and they typically turn red before people get through. More importantly we now have left turns and people traveling straight ahead going at each other on a green light. That's dangerous, very dangerous, but that's the way the remodel has worked. With this gas station, convenience store there will be two lanes turning left from northland

-- on to 2222 on to northland and that means that people will be joking to switch

-- jockeying to switch lanes because I need a loaf of bread for dinner or whatever. I do need some gas, my tank is about empty. Again, dangerous. I'm also here because of sympathy to the highland hills area people. I think they deserve in single-family homes not to have to look at the dense kind of development that this general retail strip represents. It's just a buffer is needed, more of a transition, and this is just too extreme to be looking across the

street. At the zoning and platting commission meeting that i attended last week, interestingly one of the commissioners noted that upzoning really isn't the right way to get the setbacks changed. It can be accomplished by a variance. And this is an overreaction. We don't need this sort of business. We've got lots of gas stations, we've got lots of convenience stores. As I talked to a few neighbors, it was really interesting that people that -- why would I want that? Put something there that we could use. So we heard at the neighborhood association board meeting last week that the developer hadn't really done any feasibility study or marketing study, nor would he consider any other sort of business. This is it, is what we understood. You've just been given copies, I believe, of the 100

--

[11:10:38]

[ buzzer sounds ]

-- person petition, which has been signed. This upzoning doesn't do good for austin

--

Mayor Leffingwell: That was your time.

Okay. May I finish my sentence?

Mayor Leffingwell: Please.

The upzoning doesn't do anything good for the city of austin, it doesn't do anything good for the neighborhoods. It's only good for the developer. And I ask that you please consider that and stand with us in denying this.

Mayor Leffingwell: Great. That was one sentence with four commas. [Laughter]

it was a compound compound, complex sentence.

Mayor Leffingwell: I believe that's all the speakers that we have. I've got to call the name. Joe evans, he went home? So now we have three minutes of rebuttal for the

-- from the applicant.

Mayor and councilmembers, ron thrower again. I just want to make some pragmatic points associated with the zoning case. It's in the shoal creek watershed, not in the bull creek watershed. If it was in the bull creek watershed I could definitely see a denial for gas always for this type of property. In the desired development zone the property is on a collector roadway and an arterial roadway. There is intense zoning directly across the street that would support a gas station today without any conditions. And that would be the gr and the cs zoning that exists there today. Lighting, redevelopment of the site is going to cause for the property to be subject to the commercial design standards. That's dark sky, shielded lighting. I think lighting will be better addressed with redevelopment than trying to rehab what's there today. You heard the owner of the property wanting to put solar panels on top of the structure. I think that's a good plus. The single-family that's in the area is either across the five-lane roadway or it is behind other commercial properties. This property does not abut single-family properties today. We're looking for an opportunity to offer a redevelopment to scrape the site and bring back a project that is going to be new and built to today's standards instead of trying to rehab something that's old. And I believe that the neighborhood did have a say as to what's going to happen on this property because it is lr zoning today and it's going to be basically lr zoning tomorrow and it will never have a drive-through on this property. And so with that we would appreciate your positive vote for this change. Thank you.

[11:13:15]

Mayor Leffingwell: I had a question. Right now what exists, not in current use, but there's gas pumps, a number of gas pumps, and a store.

That's correct.

Mayor Leffingwell: And you want to do the same thing, so what's the difference? Tell me what the difference is. The difference is going to be to push the building to the flat side of the property, the only interior property line that we have. And to spread out

--

Mayor Leffingwell: Towards the dry cleaners?

Towards the dry cleaners. And that building is basically on the property line. So we're going to be pushing our building up against their building. And then opening up the front of the site is going to create more visibility through there. And with that we're hoping to gain additional pumps for the gas operations.

Mayor Leffingwell: How many pumps is there.

There are two pumps with fueling stations and we are looking to put in four pumps for eight fueling stations.

Mayor Leffingwell: Thank you. Council, discussion? I'll entertain a motion on this item. Councilmember Morrison.

Morrison: I have concerns about this zoning and the main thing is that obviously it's a very complicated corner. My dentist is there. I've been going there for years. And the motivation for this or the impetus seems

-- well, as just discussed, is to add some more pumps, which troubles me a lot because that is going to add a lot of in and out to the property if we're going to be getting that many

-- doubling the amount of customer access for gas. I have looked at the maps and I think that the lack of gas stations all the way to this corner versus going down to

-- just to the south on Parkcrest isn't that troublesome. The fact of the matter is there is a gas station here now, and, you know, I guess it hasn't been active for a couple of years, but I understand they haven't been able to make a go of it. And I see Mr.

-- If you want to speak to that, Mr. Thrower, I'd be happy to not be putting words into your mouth. But what I understood is that the owner had

-- it was shut down for a couple of years. They've tried a couple of times with two gas pumps, and they're thinking that four gas pumps in this 75ed up convenience store.

[11:16:08]

That is correct. I think you would find it to be an extremely rare occurrence for a gas station/convenience store to go in place today with only two pumps. I think that that is completely outside of the realm of the industry.

[One moment, please, for change in captioners]

Morrison: Okay, so the zoning and platting

-- so my motion is to deny the zoning.

Mayor Leffingwell: Council member Morrison moves to deny. Is there a second to that motion? Second by council member Tovo. Council member Riley.

Riley: I am going to support the motion. I do appreciate the applicant's effort to deal with this site. I know it has many challenges and is a difficult site and I can understand why

-- an adjustment of the setbacks would be helpful to bring some new life to the property but I am just not sure that the new life that is proposed is something that really warrants this sort of rezoning and clearly the neighborhood has not warmed up to the proposal. I would encourage the applicant, if at all possible, to keep working on the sum vision of the property, that could lead to a significant redevelopment of the property and ideally we could come up with something that would actually be an amenity to the neighborhood that would be appreciated and welcomed by the neighborhood and I don't think doubling the number of pumps on that corner and widening the space with the cars pulling in is really going to add

-- to bring fresh new life to that corner. I was by there this weekend on my bike, and yes, there are bikes that go there and there is a bike route by there. And I noticed that it's not exactly view can't. There is a peach stand operating on the corner.

[11:18:37]

-- A peach stand and I bought peaches that were great. It wasn't right against the cleaners but right on the corner. It was a visible spot and he said business is doing great. It is a spot people can see. They can establish a sense of place for that significant point that is right there between those two neighborhoods. I can understand why the neighborhood is so sensitive about that particular location, because it is one that sort of helps to define a character for the neighborhoods on each side so I think ideally we would have an effort that involved reenvisioning that corner, actually getting some elevation that would show you what

-- what it would actually

-- what the new development would actually look like and try to come up with something that people  
-- people  
-- I got several emails from people and we heard a speaker today who just didn't even want to look at the proposal  
-- at the project that was proposed. It would be great if we had a project where somebody would look at something and say, yes, that is something I would like to see right there because it would help define us in the place at the very important location at the entrance. It is a peculiar spot, right between those two neighborhoods, but it calms for some  
-- it calls for special attention. It seems like we have an applicant who is eager to give it the attention that it needs. I am sorry this particular vision isn't really consistent with what the neighborhood wanted. So I am  
-- I will support the motion.

Mayor Ieffingwell: Support the motion to deny. I think this is a commercial area. It is not a neighborhood area. Everything in that little triangle is a dry cleaners, a bank. In fact, I think there is two dry cleaners. A motor service station, a che-z and the other side is a strip center and another commercial building and it isn't two major streets. It is on the corner and there has been a service station there for a very long time. It's

-- it's just not efficient anymore because  
-- because of the existing setbacks and the number of pumps they can handle. Maybe they can figure out a way to put more pumps and use their existing zoning but I would like to see that corner that has been vacant and nonuse for a pretty long time be able to be used for something. Any other comments? In favor of the motion to deny, say aye.

[11:21:08]

Aye.

Mayor Ieffingwell: Opposed say no. No. Passes on a vote of 4-2, with council member spelman off the dais. So the zoning request is denied. Council member martinez and myself voted no. I think this brings us to item number 98.

Good evening, mayor and council members. My name is wendy rhoades with the zoning

-- with the planning and development review document. This is case c14-2013-0045, huber family tract located at 4200 rivercrest drive. It is la, lake austin residents. " Of zoning is sf-2. This current lot is in developed and plotted in 1965 and is approximately 6500

-- it's approximately .43-acres in size. This

-- this lot was left out of the lake austin study so it was given la around 1983. The request is for sf-2 at the zoning and platting commission meeting, there was two motions, one of which was to deny the staff's recommendation for sf-2 and the second motion was to approve sf-1 co. Ultimately the zoning and platting commission took no action and forwarded to city council without a recommendation. I understand that there is an agreement between the adjacent property owners that is in process at this time and my understanding is that it will be completed prior to third reading. The applicant is here.

[11:23:27]

Mayor Ieffingwell: The questions from staff. We will go to the applicant now. You have five minutes.

Thank you, mayor. My name is jim whitliff and i am here on behalf of brian huber and his family who own this property. Could I get that first shot, please, with topography? This is a topographic picture of the tract with rivercrest drive at the bottom. The elevation of rivercrest drive is approximately 40 feet area higher than the flat area along lake austin and that's where the problem is, the steep, steep slopes you see are very steep slopes. They are all over 35% gradient. If I could get the next slide. Okay. The salmon color here is all of the slopes over 35%. I think you can see the problem right away. We have access orneriry drive and  
-- on rivercrest drive and we are trying to get down to the bottom where the lake is and the only way through there is the berlin wall which is the side to side, 35 plus degree slopes. You can see a slash through the middle of that salmon. That was the previous owner's solution for access. He put a driveway and that of course would

never be approved today. It is about a 30% grade on the driveway. It cuts through, and as you can see right in the center of the picture, there is a tree there. That's a heritage tree. It is a burr oak. Can I get the next slide? One more, please. Oh, one more, sorry. Okay, here is a picture of that burr oak. It is a heritage tree. You can see right up to the trunk is the very steep driveway, so one of the things that we wish to do is if we are successful in rezoning this property so we can develop it within the guidelines of the city ordinance, is to restore that driveway and provide the proper critical route zone for

-- root zone for that heritage tree. We already filed a tree ordinance review that was approved by the city arborist for that. I want to ask you to go back a couple of slides. One more, please. Thank you. Okay. This was -- this was a first attempt, a conceptual plan by the architects a couple of years ago. This property was three lots. The aqua verde subdivision approved in 1965, lots 5, 6, and 7. Obviously the city would never approve a subdivision like this today with the slopes and the small size right on the lake. Mr. Huber has assembled three of these lots in order to build one house and he's agreed to a conditional overlay to unify the property for one single resident. As you can see to the left side is a dashed area. That's the proposed septic drain field. He's picked the flattest area of the property to devote towards septic. This shot shows the septic. Of courses the just conceptual. It shows 30 feet from the shoreline of the lake. I've seen other conceptials that put it back another five feet, maybe even ten feet back but it is all conceptual at this time. What we do know is that the property owner hired one of the best septic designers in the city, jeff snowdemand mr. Snowden said he would use the latest technologies to make sure this septic field would not pollute the drinking water of the city of austin? I will also remind you the septic application when it becomes due is reviewed by the city of austin. So I am sure your people will be very careful to make sure that this septic system is designed, using every latest technology to make sure that there won't be unnecessary pollution

-- i will say it like a lot of the other lots, due unfortunately. The real problem with the la zoning

-- we are not looking to gain impervious cover necessary

-- to gain impervious cover necessarily. In fact, this proposed development right here is at 27% impervious cover on the site. The problem is, where is the impervious cover? It turns slopes that under la zoning are undevelopable, the 35 plus slopes and then the la zoning says you only get 5% of the 25 slope. We are basically between a rock and a hard place in designing this thing.

[11:28:39]

[Buzzer alarming] I guess that's it. I will have a rebuttal. Thank you.

Mayor leffingwell: Council member tovo may have a questionor you.

Tovo: I do. Would you finish that point about the

-- I think this is a really critical issue, about the impervious cover on the slopes? Finish the point you were making?

Sure. The issue here is

-- and i think if we go back to that colored slope map, it shows it much clearer, that

-- you can see the shadow of the building here. It's impossible to get from rivercrest drive down to the flat area without crossing to the 35-degree plus slope and I think this is a good attempt but it is only a conceptual plan. You know, mr. Huber will, if he is successful with the zoning, he will look much harder and actually build a home for himself and his

-- his two children, soon to be three children. I think I made the point that you can't do this on any la zoning constraints, which, by the way, get a lot tougher on the lots that were platted before 1982. The ordinance does say if you are a one acre standard la lot, that you get 20% development on slopes up to 25% gradient. Then you get 10% on the 25-35. Compare that with the pre'82, lots, you get 5% on the 25-35% lots. And so it does -- it does squeeze you down because you unfortunately were platted before '82.

Tovo: Where is the house

-- is there a house on this

-- was there a house on this site before?

Yes, there was. If you look

-- imagine where that driveway goes down there, there was a slab in the green area below it. Kind of in the shadow of where the existing house is. It was an 1800 square foot house, according to the research that I did. And that house was torn down before mr. Huber bought the property.

[11:30:44]

Tovo: So it didn't comply with the zoning? Or would it have been in compliance? I know it predated?  
Not with the access. The house itself was on a 0-15%, but the access is, by city code, illegal. And by the way, that driveway

-- it is a suicide driveway. I tried it in an SUV and barely made it up. I mean, it is really dangerous.

Tovo: Thanks.

You are welcome.

Mayor Leffingwell: Go do speakers in favor. Terry Garion.

Mayor, members of the council. My name is Terry Aryan. As Jim said, each of these three lots is about 6500 square feet. They were platted in the mid to late '60s as part of the Aqua Verde subdivision and as this slide shows, about a third or more of each of these three slots is in a

-- three lots is in a slope category which exceeds 15%. And so under the LA ordinance, you know, when this property was originally developed, it was under the a residential ordinance, which is the equivalent of SF-2 right now, which didn't deduct from your site area for

-- for slopes, because more than a third of each one of these lots

-- remember, they are only 6500 square feet. Well, a third of these lots is in a slope category where you only get 10% of the site area calculated in your denominator for determining how much impervious cover. If each of these lots were to develop separately and legally, they are entitled to be developed separately, you couldn't do it. You couldn't put anything on it. The owner has assembled all three of these lots and is agreeable to a conditional overlay that ties them all to one single family development. So

-- and he's also agreed to a conditional overlay with a 25-foot setback from the lake which isn't required in SF-2, so I think it meets the spirit of this resolution that you passed earlier in the day, that says the city manager shall ensure that environmental protection within the LA zoning area is maintained in any proposed new zoning category. This owner is trying to find a way to redevelop these three legally platted lots in a sensible, environmentally conscious way, and yet allow for a reasonable development of the property. At the planning commission, we talked

-- or zoning and planning commission, we talked about what the alternatives were, and one of the suggestions was, well, go to the board of adjustment and ask for a variance. But as it was explained the zoning and platting board, where there is a used district category that says you can do this amount of impervious cover and you can't in the category you are in, it's considered a use variance. The board of adjustment won't grant a use variance, so the only alternative is to seek to zone this

-- return this property to the zoning that it was in when it was platted, and that was essentially the SF-2 zone district, but it is SF-2 with a lot of protection. It's

-- with the protection that there is going to be three lots consolidated.

[11:34:28]

[Buzzer alarming] and that there is going to be the 25-foot setback from the lake.

Mayor Leffingwell: Thank you. Brian Huber. You have three minutes.

Thank you, Mayor, and members of the council for hearing this case and for the opportunity to speak. And as was mentioned, my wife and I are on this property and it's

-- it's my opinion, I hope you agree that an important area I was thinking of environmental protection development density, the aesthetics of our city, and reasonable property rights, I think that the proposal here represents the best of all of the options in

-- in what to do with this property. The other as was mentioned to revert the property to the lots and sell them as both lots or pursue invested rights either on the combined tract or the individual lots. I

-- I think the proposal here, you know, represents something that is better than both of those for the city, for the neighborhood, for residents of the city, including my family. There have been some environmental questions and concerns raised about this case. Definitely respect those concerns and have made an effort to engage on those and

-- and understand them. The chair of the la-tf, linda guerrero, in particular I enjoyed meeting. She called me a poster boy of something at the beginning of the conversation. I am glad I changed that  
-- changed that in any case, i enjoyed talking with her and I believe that we resolved her concerns and of the items that carol lee mentioned in her testimony about item 75 earlier, the conditional overlay in this case addresses everything that she mentioned, so the concerns, as I understand them, I believe, are addressed and council can take further comfort that there is also a private party that would be an enforcer on the restrictive covenants for those. The chair of our city's planning commission at the  
-- at the zoning hearing mentioned that a denial of this zoning would be a taking of the property. I do agree with that assessment and am very hopeful that you will agree to this compromised solution, which I think is a balanced way to respect both the environmental sensitivities of the area and also reasonable property rights. Thank you very much.  
[11:37:33]

Mayor leffingwell: I have a question for you, brian. Council member tovo.

Tovo: Sorry, I didn't have my mic there. I have a couple of questions for you. One main one. Would you just qualify for us what

-- what elements are in a private restrictive covenant? Are they the same elements that are proposed to be in a conditional overlay?

Right now they are the setback from the lake and the setback from the street and the specific ability for the private party to enforce.

Tovo: I didn't hear the last thing.

The specific ability for the private party to be listed as able to enforce, not relying on only the city to enforce it.

Tovo: The elements in the private restrictive covenant are setback from the lake and the setback from the street?

And the unified development, combining the three lots into one for single family residents only.

Tovo: And those are also proposed to be part of the conditional overlay?

That's correct.

Tovo: Thanks. I know this has come up

-- i have heard the zoning and platting commissioner's remark, repeated several times now and I just feel compelled to note that that individual is not a lawyer and probably a lot of us, and I hope some of our lawyers would disagree with her characterization that that would be of taking. But anyway, thanks very much for being here.

Thank you.

Mayor leffingwell: Just as a general rule, restrictive covenants usually involve things that aren't land use items that can't be put on as a cr. For example, hotel deal years ago, over on interstate 35, there was a requirement to put mints on the pillow at night that wasn't a land use issue so they had to put it on a private restrictive covenant.

Tovo: Thank you. I am pretty familiar with it but I think the point is those are elements that are also, as I understand it, part of the conditional overlay and so

--

[11:39:38]

mayor leffingwell: Well

--

Tovo: And so

--

mayor leffingwell: You asked so I didn't know you were

-- I thought maybe you wanted to know.

Tovo: I wanted to know what elements were in his private restrictive covenant.

Mayor leffingwell: Linda guerrero is signed up neutral so I am going to put you as half for it and half against it and put you in the middle.

Good evening mayor leffingwell, mayor pro tem cole and council members. I am here to make comments as a par of lake austin task force and I have sat in many meetings where the majority of lake austin task force members were concerned about exactly this type of situation coming before you tonight. I witnessed their frustration and exasperation and distress when we weren't able to get some stronger language regarding this exact sort of situation in a recommendation, and so I do speak for them, too, because the majority was very concerned about how these cases would be handled in the future. So I also want to say that every time I have come around this case, we have made improvements. Things have gotten to where they are tighter. Suggestions have been taken by this client, and he has come forward. He has met with watershed protection. I think that the fact that we don't have comments from the environmental board, we don't have comments from watershed protection, we really have not done due diligence with this structure, and because of the slope, that's a huge concern. And we just talked this afternoon and this is the first reading of this case and it is are we willing to go and look at the possibility of any environmental impacts to that slope, that they will be building the house against. So we are taking baby steps with this case, but every time and make this a green one to help make this a better project. I am very encouraged by that. That's why I said I am 50/50. I am not for this. I am not against this. I see this is moving in the right direction forward. My hope is this will be a win win. After all of the work the lake austin task force has done, we haven't been able to look at the final report yet but we take a case like this and we get the highest and the best possible situation to this that you come out and ask for, this case to have as many environmental protection as we possibly can get out of it. And that you take that in consideration as this moves forward. That's all I have. Thank you.

[11:42:39]

Cole: I have a question for ms. Guerrero.

Mayor leffingwell: Mayor pro tem.

Cole: Is there any particular environmental protection that you see as missing that need to be put in place with this particular case.

Well, we kept talking about a restrictive covenant which I know hasn't been signed yet. We talk about a concept plan. Where is it? It is not on paper yet. I feel like I have this etch a sketch with a lot of pretty, nice, interesting details, but there is nothing

-- and hopefully by the second reading, we will have in place what they are proposing, and you can see what those additional protection are. We are concerned about the slope. We are concerned about the water quality. We are concerned about the possibility just to get the zoning with the protection that is set in and we have an agreement to the setback which we appreciate, too, so this is part of the restrictive covenant. So we've got some of these protection coming forward but it is nothing

-- there is black and

-- that is black and white. There is nothing you can look and say, I feel really good about this. Thank you.

Mayor leffingwell: Council member morrison.

Morrison: Linda, thanks for all of your work and for following this case along. I hope you are right and that it gets to where it needs to be. To me there is a couple of glaring omissions in terms of environmental protection that would be given up. One is building on the slopes and you are talking about that. It sounds like you are talking about it more. For me, that's really important. What about the issue of the septic setback, the septic setback.

That is a huge concern. Given that the information we were presented, it's

-- we have been told that it's not possible to move it. However, we have been told that there will be a state of an art type of septic system placed in there. I don't have the details of this, but, again, we don't have what it is they are exactly presenting. It sounds great. It sounds likes the cutting edge possibly and would be helpful, considering the fact that it can't be moved from the location it currently is, but, again, i don't have that information and I would hope that would be something that watershed protection could weigh in on.

[11:45:14]

Morrison: Yes, I think we will have an opportunity to ask them. Thanks. Thanks, linda.

Mayor leffingwell: Now one of those against. Denise gertert. Kel carol lee, carol lee. Okay. There are no speakers against. So I guess we don't need a rebuttal and there is listed as being ready for all three readings.

Let me clarify. This case is

-- there is a staff recommendation or an ordinance for that is the staff recommendation. However, I understand the parties are working on an agreement and have requested only first reading.

Mayor leffingwell: Okay. And I think I erred earlier, because linda guerrero was half against. You get to rebut that half. You have 3 minutes.

Thank you, mayor, I was going to come up here and beg for one and a half minutes but I will take the 3. First of all, I want to address this restrictive covenant with the neighbor. The purpose of this restrictive covenant with the neighbor and hasn't been signed simply because there hasn't been the time. We received the approved language from the attorney three days ago

-- not her fault but that's how the time worked out. We got it and then sent it back but it was only three days ago. We have to send it off to jp morgan for a lien holder's consent and you imagine that will happen in a week and until the lien holder signs it, the legal property owner does not have a right to sign that agreement. That's why we haven't turned in the restrictive covenant. Everything in the covenant is already covered in the conditional overlay. These issues that the neighbor is talking about is for his comfort and his protection and there is nothing in there that is not already covered somewhere else so that's how I want to address that. At zoning and platting commission, the discussion was what about sf-1? We did look at it and agree that sf-1 would be adequate for us. As I said, this is not an impervious cover issue here. This is simply, can we build, can we get from the road down to the lake and it is my understanding and belief that we can do that under sf1 because these lots were platted in 1965 and simply the la zoning ordinance specifies in the ordinance what

-- what percentage of the development you get on each slope category and because of that specification, we can't meet it, as terry aryan said, it would be variances at the board of adjustment and I had them kick me out and say go zone the property properly and so that's why we are here today. So we have agreed to a number of things as is recorded in the la zoning ordinance, not to remove 30% of the wooded vegetation in the shoreline setback. As I stated earlier, we will rehab the critical root zone of that heritage tree that's been impacted by the driveway. The septic system, if we go back to the slope map, you will see there is nowhere else to put it. We could put it 100 feet away but nobody would want it on a 40% slope. It would be completely ineffective so

--

[11:49:05]

mayor leffingwell: And illegal? You couldn't

-- [multiple voices].

You are right. It's not possible. This is the only below

-- this is the only location and I want to remind everybody on the council that the owner has taken primo of three lots and dedicated it to septic. Thank you.

Mayor leffingwell: And to address a couple of things. First of all, the septic system is governed by separate regulations. I don't know who has purview, who has authority in this particular area.

City of austin will do the review but it is all per state law.

Mayor leffingwell: The primers that y'all set to ensure there is no

-- there is no pollution to the water et cetera, but as far as the other environmental protection, building on slopes, but regardless of zoning you have to have a variance to do that, with a slope over a certain percentage, and so I take it

-- I understood you to say everything in your private restrictive covenant that you are working on is also in a conditional overlay on the zoning.

Right. The private restrictive covenant

--

mayor leffingwell: The private restrictive covenant is only to give adjacent neighbors or the other signers of the covenant the ability to enforce as well as the city?

That's correct. Thank you. Council member tovo.

Tovo: At this point does the co involve the following provisions from lake austin? Let me ask you if these are things

-- I believe I heard you say that the lake austin

-- the provision in the lake austin district that you can't comply with is the slope

-- the impervious cover on the slope?

Correct.

[11:51:06]

Tovo: I would expect, then, that the other requirements would be things you can comply with including personal fact improvement prohibited in shoreline setback area, except for boat house, marina or driveway to the structures?

We agree to that but we would like to add one thing to it, sidewalks because we would like to have a sidewalk to the setback to the boat dock.

Tovo: That is not currently part of lake austin

-- I mean, if we are applying the lake austin provisions to

-- to yours, and so

--

I guess it allows a driveway. We can have a very wide sidewalk.

Tovo: I heard you mention not more than 30% of the woody vegetation removal?

Correct at.

Tovo: Provisions before the surveying and testing of vegetation within a shoreline setback area may not be re re moved before a building setback is issued. Are aware of that provision?

Yes, we agree to it.

Tovo: I want to talk a little bit about your point about the septic system. From what I understand, based on the information you provided to my staff, this is the only location that you believe would be suitable because of the slope on the site?

Yes. It's

-- it is the only

-- i don't think it is just my belief. I think anybody would agree that it's the most desirable spot on the entire property to locate a septic field. Can I get that slope back up again, please?

Tovo: Is it the most desirable or the only

-- only appropriate?

I think it's

-- I would say it's both. It's most desirable. It is the furthest from the shoreline. It's

-- it's the area off to the left on this map. And the shoreline setback line does appear on here, the 25-foot shoreline setback so it kind of wraps around to the back side of the green area around that tree which is a protected tree but not a heritage. Whereas on the far right side of the property, the green area is only about 14 feet from the shoreline setback and that's certainly not

-- the best option to push the septic drain field, the furthest from the lake shore line is on the right side of the property and that's why mr. Huber dedicated that lot for septic.

[11:53:34]

Okay. Thank you.

You are welcome.

Mayor leffingwell: Okay. So final question, the next meeting is august 8. You would have time enough by then to have restrictive covenant documents done?

I believe so, but, you know, getting the lien holder's consent from a corporation is

-- I have seen it take longer, but i will do what I can.

Mayor leffingwell: Actually whoa are not involved in that

-- we are not involved in that part, anyway, the private restrictive covenant. Council member morrison.

Morrison: I have a couple of questions I wanted to ask. So as we look at that diagram that you had up just recently, if we could get it up there again. You are saying from the shoreline to where that slope starts, how many feet is that?

From

-- on the left side of this diagram, can I refer to that?

Morrison: Yes. There is more distance there.

The shoreline setback line which appears there is 25 feet back so the distance to the green where it meets the orange, it looks to me like it would probably be another 40 feet perhaps, 35-40 feet.

Morrison: Yes. Okay. Maybe 70 or 75 feet. And then just to make sure i understand the diagram, you are proposing to have a driveway on the slope as well as some building. Is that correct?

Well, as you see in gray, there is a driveway shown in gray there and it would come in much like the home right next door that exists at grade. You would walk into the garage and then you would have a little, I guess a corridor to the residence, and the residence would be three stories tall. By the way, it will comply with the mcmansion ordinance as it's required to do and you would

-- you would stake the stairway down to the lake

-- you would take the stairway two levels down to the lake.

[11:55:42]

Morrison: Just to make sure I understand. You have the garage driveway. You have the bridge and then when you go towards the lake from the bridge, is that house or is that where you enter the house?

That's house, and the largest section is on the third floor. On this conceptional, which I want to emphasize these are conceptionals, the bottom level, the footprint of the building is only 800 feet and it was designed to minimize the impact of the lake and maximize the outdoor area.

Morrison: How many square feet, roughly, are you thinking would be at this site?

Well, this house, as proposed was 4,000 something, and, you know, it's a proposal. But, as I said earlier, 27% impervious cover on the tract and

--

Morrison: Why do you have a three story house with

-- did you say 800 square foot?

On the bottom floor, 800.

Morrison: Maybe that's

--

yes, the top floor candle weavers out quite a bit.

Morrison: Okay. I understand. Thank you.

Mayor leffingwell: So entertain a motion. Motion, i understand, for first reading only.

Morrison: I have some questions for staff, if i may.

Mayor leffingwell: Council member morrison.

Morrison: I wonder if i can ask mr. Lesniak to come and answer a few things and it might be some land use things, also, but I wanted to get just the perspective of why is it

-- why do we have these protection of prohibiting construction or a certain amount of impervious cover on the slopes? What are we trying to do? What are we trying to protect?

Generally, it's intended to encourage development with the land instead of against the land. It minimizes erosion. Oftentimes when you start doing development, even when you are doing it on piers, you can create erosion problems on slopes like this, and very often, if you are doing development on a slope like this, you have to do a lot of cut and fill, and so it's minimize

-- minimize cut and fill but you can certainly increase erosion problems because even if you do this on piers, there won't be any vegetation under that building and the servants from the piers and the other development could cause problems. And there are variances for that, but that's generally what

-- what

-- why impervious cover is minimized on slopes. In a situation like this  
-- I am sure there must be other situations where it appears the only access is via going across the slope. How do we generally handle something like that?  
[11:58:49]

Yes, in the land development code, there are allowances for crossing steep slopes for a driveway, to access a certain size site, and on occasion, when the only access is for a driveway across steep slopes, a variance is applied if they can meet the findings of fact. This is a very steep slope and for a development that is required to get a variance or something like this, it would be challenging.

Morrison: And then I have questions about septic, because I believe the current requirements under the zoning for this land is that the septic tank be set back 100 feet. Is that correct?

I think that's correct. I don't have those restrictions in front of me but I believe that's correct.

Morrison: Can you talk about why we have those protection in place, too?

It is clearly because there is generally

-- along Lake Austin the city is not able to provide wastewater service and so most of the development, new land builder development is on septic systems so you are putting a lot of septic systems right along the lake that is one of our primary sources of drinking water and so I would imagine that the reason for the 100 set foot setback is for that purpose. It's not to say it can't be safely done but when you are doing a lot of septic systems, you two try to push them as far back as possible.

Morrison: Right. There was mention of state of the art septic systems. Are there various level of

-- of

-- is there a quality in septic systems

--

there is a whole range of treatment technologies in septic systems and ways to design them that are

-- that reduce the risk treatment technologies in septic systems and ways to design them that are

-- that reduce the risk of environmental problems. The city will review this at the

-- the Austin water utility will review this. They will only review it against the city's standards and there is not a different standard for Lake Austin as there is for anywhere else.

[12:01:38]

Morrison: And I imagine the size of a septic system and, thus, the setback that you could actually achieve here depends on the size of the square footage you trying to treat. Is that correct?

Usually that is correct. The size of the house and the number of people using it but it's usually tied to the size of the structure because there is an occupancy assumed per square foot, I would imagine, would have to get more detailed on that from the water utility but usually the larger the structure, the larger the septic system is required.

Morrison: So originally, this

-- I believe I heard that this property had an 1800 square foot house. That would be a significantly smaller septic system than a 4,000?

To be honest, I don't know.

Morrison: Okay. And then last, there has been some talk about vested rights and I believe you are familiar with some of the cases that have come through. Do you know if this property has been addressed through the 245 application process?

My understanding from the 245 coordinator is they applied the 245 application and that application was denied.

Morrison: It looks like Mr. Aryan may want to make a comment to that. 245 was applied for. It was not granted. There was a discussion with the city attorney about whether or not there ought to be an appeal to that. I said, look, we won't appeal to that. We were encouraged, actually, to pursue the zoning case as a way of reconciling. I said, we are willing to consolidate these three lots into one. We are willing to do some of the environmental things that the staff wants. We will go this way instead of appealing. We

-- we believe there are vested rights in this property, but we are trying to find a win win solution here.  
Morrison: And you said you were encouraged. Can you share with me who encouraged you to rezone it?  
[12:03:39]

I have talked with several of the city attorneys. I am not sure if they want their named bandied about or not.

Morrison: Okay. Thank you. Thank you, mr. Reznik.

Mayor leffingwell: Council, somebody.

Martinez: Move approval of

--

Mayor Wynn: Council member martinez moves to close public hearing and approve on first reading. Second by council member riley. Discussion? All those in favor, say aye.

Tovo: Yes.

Mayor leffingwell: Council member tovo.

Tovo: Yes. The recommendation we have before us from staff, i don't believe includes the additional elements that are part of lake austin voting that mr. Whitlif said would be up to and including so i suggest the following recommendations from lake austin district regulations be included, this is section 252551, b2, b3, b4.

Mayor leffingwell: Can you tell us what those are.

Tovo: B2 permanent improvement nor a setback area with a marina for a driveway to the structures. Number -- and I

-- just to be fair, mr. Whitlif wanted a change to that and i propose it be to the code, b3 is not 30% of the woody vegetation in the shoreline setback area may be removed and b4, except for surveying and shore line setback area may be made for a permit issue for testing areas 15 wide and true smaller than 6-inches in diameter may be removed. Unless, I think it does not chair all of the lake austin district provisions that regulations

-- or the environmental protection that are part of lake austin district regulations but should be included. I have seen that to be controversial.

[12:05:50]

Mayor leffingwell: Except for the sidewalking, those are all things that mr. Whitlif indicated he could comply with?

Tovo: Correct.

Mayor leffingwell: Is that a friendly amendment to you, council member martinez and riley.

Martinez: I accept it as first reading as friendly. Of course knowing they will be discussing it and if there are any other changes they will bring them back on second.

Mayor leffingwell: All right.

Morrison: Mayor.

Mayor leffingwell: Council member morrison.

Morrison: I won't be able to support this motion. I think obviously this is a very complex issue that we are dealing with but the bottom line is I think they are trying to squeeze too much house on this very delicate piece of land so i am not comfortable with the

-- the constraints as they are put forth at this point.

Mayor leffingwell: All those in favor, say aye. Aye. Opposed say no.

Morrison: No.

Mayor leffingwell: I believe that passes on a vote of 5-1, with council member spelman off the dais.

Mayor leffingwell: This blings up 104.

This is 1 c14-h20113-003. And I will put it to steve sedowsky.

This is

-- for a landmark reservation

-- this is perhaps the most iconic building in the entire city. Looking at the website for the development, I never have seen so many photographs of one building in austin that has captured so many people's austin.

Mayor Ieffingwell: Except the capitol.  
Except the capitol. [Laughter]  
okay. The u.T. Tower, too? Any others.  
[12:07:52]

[Laughter]  
mayor Ieffingwell: History center.  
The building is built in 19  
-- two phases, first in 1950 and a second phase in 1955. The building was actually commissioned in 1948 when  
Wall Sir Seaholm was the director  
-- Walter Seaholm was in a position he held in 1950 and 1950-'55, he was Austin city manager. The building, when  
it was first built was known as power plant number 2 and in 1960, it was dedicated to the memory of Walter  
Seaholm and the building was designed by Burns and McDonald, the most prominent architectural firm  
specializing in water works in the country and they are from Kansas City Missouri and most of their buildings had  
a modern design like theirs does but this is solid concrete with scored concrete panels and all their other  
buildings have structural steel. So this is unique in their design and unique in the form of construction. The  
entrances in the side of course have the iconic signage and I think everybody might agree this is the most iconic  
signage in the city, maybe. Okay. This is modern design, it has power on one side, light on the other, and this is  
highly photographed. This is obviously a landmark in the city of Austin. The staff landmark and planning  
commission have all recommended it for landmark designation. Thank you.

Mayor Ieffingwell: Okay.

Cole: Mayor, I have some questions.

Mayor Ieffingwell: Mayor pro tem Cole.

Cole: First of all, with the designation that we are seeking today, that does not make this building eligible for  
federal tax credits, does it?

[12:09:53]

No, it does not. No, in fact, this building has been turned down for federal tax credits.

Cole: Okay. So that's not in play. It's my understanding that we still own this building but that it is under a 99-  
year lease. Is that correct?

I believe it is, yes.

Cole: So the city owns it. Now, what makes the building eligible for the local tax abatement?

Designation as a historic landmark would make it eligible to apply for the tax exemption.

Cole: Well, do you know the amount of that tax abatement?

I do not, Mayor pro tem, only because on the tax rolls this has

-- this has been appraised at 0, because it

-- it's not

-- it has no tax liability, being under municipal ownership.

Cole: Well, does that mean we were unable to use it in any calculation of the impact on the TIF?

That's beyond my area of expertise. I am sorry.

Cole: Do we have anybody from finance here?

Mayor Ieffingwell: S the after 5:00. [Laughter]

Cole: Okay. Do you know if the city is providing any funding for the preservation of the building, tax rebates?

They

-- nothing has been applied for it at this date. I do want to add, too, that up until now, the developers have been  
complying with historic landmark collision rules and regulations of the city code in everything that they have  
been doing on the

-- on site. They have gotten a certificate of appropriateness for the landmark commission in anticipation of this  
zoning change.

Cole: So with the zoning change, is the building going to be eligible for interior restoration?

Well, the zoning change and interior restoration have little to do with each other.  
[12:11:57]

Cole: Those are two separate items?

Two separate items.

Cole: I know we got a commitment on that and I wonder if it would have negative impact on the commitment. Historic zoning would have no impact whatsoever because as a city under the code, we have no authority to regulate changes to the inside of buildings, on the exterior and the site.

Cole: So I guess the only aspect of my question that has gone unanswered is the impact that the tax abatement would have on the tif. You haven't made any calculations with that?

I have not but I have seen communication that even with a proposed 30%, which is an average for commercial property

--

Cole: I see help coming.

Okay. The city would have a net benefit.

Okay. Sorry.

Elaine hart. I was upstairs. The tif had a base year value of zero because it was all public land so it is like the mueller tif. We started out with zero, so as the assessed evaluation grows, the tif captures that growth.

Cole: So what impact does the landmark designation have on the tif?

I haven't looked at that, but if

-- if the tif is based on the assessed evaluation growth, any abatement would reduce that revenue, is how I think it would work.

Cole: It's my assumption, too.

So tax abatements are typically good for only ten years and this was a longer term tif, so the tax abatement is for a limited time period.

Cole: But I guess I am really concerned, Elaine, just help me. If we started at zero and we are climbing in value and we are going to abate the taxes, are we talking about millions of dollars we will lose because of the abatement to the tif? Or is it a minute number or do you have no idea?

[12:14:01]

I don't have any idea. I have not looked at that part of it but we can certainly get you an answer. Possibly not tonight.

Cole: No, I understand. Steve, do you have to have this tonight? Is there any reason I can't make a motion to postpone this until August 8, until we get the tif numbers and we can look at the financial impact? Because we still own it and we have a financial interest in that and the other things I am talking about, but we

-- I would like to know the impact that the landmark designation is going to have on the tif.

Sure. Sure. No. As far as I know we were moving the case through, but if y'all want to postpone it, I don't see an issue with that.

Cole: Mayor, I would like to make a motion that we just postpone this item until August the 8 and we can have that in memo form, that's fine, and reconsider it at that time.

Mayor Leffingwell: Motion by Mayor pro tem to postpone until August it is getting to be a lengthy list. Second by Council member Morrison and I am going to support the motion because I don't guess there is any hurry at all about this but I somewhat question whether or not, you know, whether or not the tif value would affect the historic status of the building. If it is a historic building, it is a historic building. Council member Martinez, and then Morrison.

Male student: I want to ask one question. I am supportive of this. I want to make sure there are no planned changes to the exterior of the structure, because if they happen in this interim, we can't preserve it. You mentioned the signage and how iconic it is, I want to make sure there are no plans to do anything with that, take it down, move it, anything of that sort.

No, no, sir, it does not.

Martinez: Thanks.

Mayor Leffingwell: Council member morrison.

Morrison: If I can follow up on that. Anything they have done so far, they have come to get a certificate of appropriateness, anyway.

[12:16:04]

That's correct.

Morrison: So my sense is is that those guys are really committed to the historic integrity of it?

Yes, and also, too, council member, this is a pending case, so any change that they would want to make will need a certificate of appropriateness.

Morrison: Good point. And I do want to

-- i appreciate the questions, because, you know, we go through the

-- we had to go through and redo a little bit of this very tif recently because of the

-- because the estimates were off and also we should at least know what we are doing. I heard a couple of things that I just want to get clear I misheard. One, I heard that

-- that because it was property

-- because it was public land, that there wouldn't be property taxes on it, but it is my understanding that there will be property taxes on the commercial use of public land.

There will be. As of right now, because it is publically owned, there is no valuation in the appraisal districts, because it was owned by the city.

Morrison: Right. It starts at zero, I guess is what you are saying?

Yes.

Morrison: Although they are working

-- I get it now. I understand why i misunderstood. [One moment, please, for change in captioners]

[12:18:05]

Mayor Leffingwell: All those in favor, signify by saying aye? Opposed say no? It passes on a vote of six to zero with councilmember spelman off the dais. So I believe my understanding is 108 will be postponed also. Is there a request from staff to postpone that?

Yes, mayor, there is a request from the legal staff to postpone this to the august 8th meeting. The stakeholders are aware of it and are in agreement.

Mayor Leffingwell: I'll entertain a motion to postpone 108 to august 8. Councilmember cole so moves. All those in favor, signify by saying aye? Passes on a vote of six to zero with councilmember spelman off the dais. Number 107.

Thank you, mr. Mayor and council. I'm kevin judc, the watershed department. The item before you today is a floodplain variance request at 4518 avenue d in the waller creek watershed. Here is an overall view of the neighborhood in general, the property itself is highlighted in the red. It's on avenue d between 45th and 45th street. Right along waller creek. This area is well upstream of the waller tunnel project and so despite the fact that we're obviously going to have a huge improvement in floodplain in the downtown area on waller, it will not have any affect on the floodplain in this area. Within this general area, 43rd to 51st area in this hyde park neighborhood there's about 150 properties, give or take, that have floodplain on them, not necessarily the homes themselves, but the property in general. We do have significant amount of properties and homes within the floodplain in this area, and this lot is no exception. Here's a little more closeup view of the property itself highlighted there in the red. There is an existing single-family house on the lot. This aerial view actually shows a shed there behind the existing single-family house. The shed does not exist anymore. It's been removed. The current owner purchased the lot, I believe, in about 2011. At that time the property was in the floodplain. As you can see here by the map, the 25-year floodplain is the darker blue with the 100 year floodplain extending beyond that and the lighter blue color. So not the entire lot is in the floodplain, but obviously a significant majority of it is

even in the 25 and the 100 year floodplain, and the structure itself, existing structure, as well as the proposed, encroaches on the 25 and 100 year floodplain. And you can also see which is a key point that the access to the property from avenue d, avenue d is entirely within the floodplain itself. Here is a picture of the house as it exists not necessarily today, but a month ago or so when we took the pictures. They do have an active

-- actually two active plumbing permits on this property for water and wastewater lines. I'm going to get back to the status of the existing house here in a little bit, but for now the existing house sits on the property in this condition. And this is from avenue d looking up at the house. So the owner has submitted a residential building permit application to remodel the existing house and add on an addition behind the existing house. The addition will be actually two stories high, so the existing home is about 730 square feet, and they propose to add on another about 1500 square feet, so the total would be about 2300 square feet of liveable space on the property. They are proposing with the proposed development to bring the

-- the addition will have a finished floor elevation that is more than one foot above the 100 year floodplain and they are proposing to elevate the existing home, which is subelevated, elevate that to the same elevation, so the existing building as well as the addition will both be elevated 1.2 feet above the 100 year floodplain. They're proposing a pier and beam foundation. Here is just, kind of to show you the massing, kind of the look of the house there, the two-story part is actually the rear portion and the one-story section is on the front of the property. So because the addition is in the 100 year floodplain and 25 year floodplain, obviously there are several requirements as far as the floodplain regulations are concerned. And because of the access to the property is in the floodplain that they have some issues with that as well. So in general the three significant floodplain variances that they're requesting are variance the safe access rule, which is essentially you need to be able to walk from the house to the right-of-way at an elevation that's one foot above the floodplain. When the street in front of the house is in the floodplain, that usually renders that impossible to do. So they're requesting a variance to that section. In the case of this property, since they're increasing the conditioned space of the structure on the premises from 730 square feet to about 2300 square feet, and since they're not meeting the floodplain management regulations as they exist today, then we consider that an increasing the nonconformity of the premises and that's an additional variance they're requesting. The drainage easement variance that they're requesting is just to exclude the existing and proposed building from the drainage easement. Not to exclude the drainage easement in its entirety. We've talked some some the past about that rule. I know you've seen this before and I really

-- this is one of my favorite safe access slides because i really think this tells the picture of why we lost properties in the city that may be able to encroach in the floodplain and why we want them to have safe access. This is not avenue d. This is a mobile home park in wood view and the west bowled christian neighborhood. However, on the top right in the red circle is a picture of a mobile home and that's west bouldin creek running in front of it. And the picture on the bottom left is the residence standing on that platform where the door comes out taking a picture of what the water looks like. It doesn't really matter if the water is two feet deep or if the water is 10 feet deep, you can't see it. You can't see what's underneath there. You don't know how deep it is. And when you have raging water outside you don't really know where to step, so our goal with the safe access requirement is to allow people to if their house is built and there's floodplain around it is to be able to go from the house to a point that's outside of the floodplain all at an elevation that's one foot above the floodplain. So they don't ever have to see this situation. So it's very important for the people that are inside the house, the occupants, but it's also important for the first responders that may have to do evacuations at the residence. And I think this picture really tells that really well. The nonconforming use criteria, again, the house as it exists today does not conform to the floodplain regulations. So it's a nonconforming use. In the code as far as the building code and the floodplain management regulations say you can't increase the nonconformity. And staff over the years has been very consistent in applying this rule. When you're increasing the conditioned space of a house that's nonconforming, we consider that increasing the nonconformity. And so they are increasing the conditioned space on the lot from about 730 square feet to 2300 square feet as I discussed earlier. And just as far as what the floodplain management rules go, and we did look at the comprehensive plan, the imagine austin plan, and obviously there are policies within

-- suggested policies within the comprehensive plan that propose density and there are a lot of places in town where that makes a lot of sense. However, there are also policies in imagine austin plan that say we need to reduce the risk of flooding. And so as far as our

-- as far as the floodplain management program is concerned, we don't feel that increasing density in the floodplain is a good idea, and that's exactly what is happening in this situation. So just a summary of the findings, the applicant's engineer did submit information that indicates that the development as they're proposing does not cause additional flooding impact, flooding to other properties. It does not cause an adverse impact. However, there's no safe access to the property and they're adding additional occupancy into the floodplain as well. They are raising the finished floor of the existing house as well as they will construct the finished floor of the proposed addition, both about 1.2 feet above the 100 year floodplain. The hardship condition is something that it is detailed into the building code and it's something that we do actually discuss with fema and when we have to talk about floodplain variances, and the hardship conditions can typically be if there's a lot that's undeveloped and it can't conform to the floodplain regulations, then they may consider that a hardship condition and therefore a reason for a variance. But when there is a structure already on the property that's usable, then they don't consider it to be a hardship to add on to that property and increase its nonconformity. Watershed protection staff is recommending denial of this floodplain variance. We do have a draft ordinance in your packet, and that draft ordinance is there in case you were so inclined to approve the variance. And there are two conditions on there that I wanted to talk about. One is the drainage easement condition as I mentioned before that are only requesting a drainage easement to the variance condition to remove the building footprint from the drainage easement, not the entire property itself. However we do put it as a condition. And because they are constructing within the floodplain the elevation certificate requirement is there and that's to ensure that during the building process as it's inspected the building conforms to the plan such that it's being built 1.2 feet above the floodplain. So that's the requirement of that one as well. One thing I wanted to backup in the document is I had one typo in there that I wanted to mention. In the backup documents it is the document that is entitled recommendation for council action backup. The first section is called summary of findings and there's five summary of findings of that document. The next section is the applicable code and variance items. And under that where it says variance requested, the applicant requested variance to building code section 1612.4.3 to have a duplex. It's not a duplex they're proposing. It should read to be a single-family house and addition to be constructed. Just wanted to clear that up in case anybody had a question about that. Back to the existing status of the building on the property. The owners have demolished essentially everything inside the building. So it is essentially a shell that currently sits on that property. So let's say that they submitted for a building permit just to renovate the existing building only, the entire thing, which is essentially what they've started to do. That is what we would consider a substantial improvement because the valuation of the improvements are more than 50% of the value of the structure. When you're doing a substantial improvement to a building that's not conforming or in the floodplain, you have to conform to the floodplain regs. This property doesn't conform to the regs because it doesn't have safe access. So even if we were just looking at an application for a renovation of the existing building only, they would still be here scag for a floodplain variance. So I just wanted to make sure that everybody understood where the

-- how the property exists today, what's there now, and again, the request is for the residential building permit as I described, renovation of the existing house and the addition, two-story addition in the back. However, the status of that existing property is significant. I just wanted to bring that to your attention as well. The applicant is here to address the property, and I'd be happy to answer any questions you have. Mayor pro tem?

[12:31:21]

Cole: Councilmember morrison.

Morrison: Thank you. You're always very informative in your presentations. I don't know if this is a fair question, but if they were to apply for a variance just to redo the inside, so basically not increasing the square footage, not increasing the footprint, do you have any idea what your recommendation might be?

I do.

Morrison: What would that be?

They would not be increasing the conditioned area. So essentially they would be renovating the entire inside of the house. And if that proposal was also to elevate the house at least one foot above the 100 year floodplain, then we would find that as a positive development because they would be decreasing the flood risk of the house by

elevating it up. But they wouldn't be increasing the density of the allowable space for more people to be in the building, so that would be something that we would recommend approval for.

Morrison: Does that need a separate variance application? We don't have any design for that. We could do it under the building permit as it's been submitted, but obviously it would have to be -- it would have to be revised.

Morrison: So in terms of if council 'ed to take that action, it doesn't do any good to take it tonight.

Let's just say hypothetically that council decides to deny the floodplain variance as it exists today. And then the applicant comes back tomorrow and wants to change the plans just to renovate the inside or some other configuration. There's a provision in the code that says that you can't request a variance for something that was denied. You have to wait one year for that to happen. And so you would have a shell of a building sitting there for a year while we wait for that one year expiration so we could come back and say now we have the building application, here's what we want to do whether it's in the existing structure itself or a smaller addition. That's the --

Morrison: Can you suggest a solution? Is there a scenario where they wouldn't have to wait for a year, but the council could indicate that they wanted to allow them to redo the building as is and make the improvement as you suggested?

[12:33:32]

Well, I'm not exactly sure how that solution would happen. I mean, I know that we had a similar case, if y'all remember on Johanna, which is in the east boulder watershed, where it appears that the council was heading towards a dismissal, and the owner stood up and said, you know, I can't have this happen. And then there was no vote that happened. And then we reconvened with the applicant and staff afterwards and over the course of a month or so they came up with a little revision to the plan and then we brought it back to council. It was very similar, but it had some tweaks to it, and council approved that variance as the revised variance. So that's an example of how it could happen.

Morrison: I get that. Thank you very much.

Martinez: Mayor pro tem, I wanted to ask a couple more questions, but I wanted to start out with this question. How did we get to this point to where the interior house was gutted? Was there a permit pulled for a renovation? And substantial work was done, but it was a permit for just a remodel?

Good question. And I know that the applicant wants to address that. What I can tell you is that the owner did not pull a demolition permit to do the demolition inside. The only permits that are active on the property are the two plumbing permits, water and wastewater.

Martinez: Okay. I want to go ahead and ask the applicant that same question. Because I think what his response is going to be in order to do plumbing and electrical you kind of have to get into the walls, I assume.

Correct. Good evening, mayor pro tem, councilmembers. David Cancelousi for the property owners. Specifically to your question, councilmember Martinez, just to backup a little bit, there was from what I understand since -- prior to my involvement with this case, between my client and the city staff, there was a lot of back and forth, and apparently maybe some bad information, maybe some misunderstood information. And they understood that there was not an interior demolition permit requirement when you're only doing interior. And I think that the basis for that was that if you read the definition of demolition, in 25-1 in the land development code, it I think specifically talks about exterior removal. And the city residential zoning department doesn't have a -- doesn't differentiate on a form between interior or exterior. It's just demolition, so you get different answers. And we've got folks here that are owners that are not contractors, they're not developers, they're just trying to upgrade a house. So over the month and in the ensuing conversations that occurred, it's understood that they were told you don't need it, you can do it. Now you do need it and you shouldn't have done it. And through that process they were also advised that an updated water meter would be required. And so they hired a plumber who went through the proper channels, got the plumbing permit, upgraded the meter, and that's how we got essentially to the point we're at today where we have a shell of what I wouldn't call a substantially large building, but a 700 square foot bungalow that's been there since it was built several decades ago. So what we would like to do is add on to the rear of it and then go up vertical from that existing

-- from that proposed 700 square foot footprint to the rear of it. And you have I think late backup that I handed to the clerk earlier this evening that is the engineer's cover letter and response to the floodplain staff's comments. And I'll let the engineer, evidence moore, who is here tonight, address those more specifically. There's also some engineering calculations to talk about, volumetric displacement being reduced and floodplain availability being increased because of the modifications to the proposed design, which at one time was slab on grade and now it's a pier and beam. And so what we would like to do is, you know, have the council consider the fact that the entire

-- this substantial section of avenue d is in fact underwater, and although it's not the client's or private property owner's responsibility to fix the right-of-way, it's become his problem unfortunately. So we have a situation where several houses along this block of north hyde park are substantially inundated in the 25 and within the 100 year. So on this particular lot we have a portion that goes from 25

-- I think in your backup you have that and it goes into the 100 year and then the rear of the lot is there is no floodplain.

[12:38:32]

Martinez: I just wanted to ask a question about the interior walls. You will get to make your case

--

I'm sorry. I apologize.

Martinez: I'm trying to get to a specific line of question.

Mayor Leffingwell: I thought you were doing your applicant's presentation.

Martinez: No, he had a question. Did you cover it?

Well, unless you have specific questions, I think I'll back off from that. And I'd be happy to address them. I would just add for your consideration tonight that we've done some number crunching on what's there and what's proposed, and via whether it's restrictive covenant or a co, we would propose to reduce the allowable 45% impervious cover to 35% and limit any further impervious cover on the lot. Other than what's existing, the proposed 700 square foot footprint on the ground and availability for two on-site parking spaces, excluding covered parking, carport, etcetera. Thank you. I'm here for any questions.

Mayor Leffingwell: Could I get your name?

Yes, sir. David cancelicoi.

Mayor Leffingwell: Did you have another question?

Martinez: For staff i did. So was there a complaint filed with code enforcement to alert staff or was there an inspection done where staffed walked in and saw that interior walls were missing to get to this stoppage point and say hey, you've made a substantial remodel and now we have to go through a different process?

No, there's no code enforcement on the property now. Demolition inside happened maybe at the same time they were submitting the building permit application, so for the whole development. The building permit application comes to the residential division and they see it's in the floodplain. That's when it comes to the floodplain office and then we talk to applicant, we made some site visits and that's when we saw it was a shell.

[12:40:34]

Martinez: And we had a case very recently, or at least in my mind it was recent, in the same area, and I can't recall what we did, but I think it was on speedway.

One block away west.

Martinez: What was council's decision on that? I think he is right, this is an area where we have numerous properties that if they ever want to remodel or rebuild they will have to go through the floodplain variance process. What did we do in that previous case? 4515 speedway was again one block to the east. That was three months ago. And council denied that variance request. It was a proposal to go from about a 670 square foot house to a 3,000 square foot duplex. The differences between the two

-- and I think i actually failed to talk about the depth of the water. The depth of water in the street at this property is about a little over more than three feet, a little actually deeper in the street here than it was at 4515. But at the house itself at 4518 it's less than a foot for the 100 year floodplain. So the lot itself is a little higher, but this lot sits at the low point of avenue d where there's a storm drain in the front, means a low spot, the deepest, so three feet in the street itself. So to get out from the house to the street and either way you walk you will be walking through floodplain.

Martinez: And on the case, if I'm recalling the correct case, I believe was somewhat different in that the actual structures were built out of the floodplain. It was only a portion of the driveway at the entry point on the street that really crossed over the floodplain. Is that correct?

For johanna?

Right.

The proposed house was on the side of the lot on the floodplain, kind of cantilevered over and there was the existing house on the floodplain in the front of the lot.

Martinez: And they demoed that and it was just about a 10-foot section of driveway in the floodplain and that's why council proceeded

-- that's why i proceeded with approval of that because it really wasn't about the structure, it was about the ingress and egress point. But you're saying this entire structure is three feet deep in the floodplain.

[12:42:41]

The water around the structure on 4518 is the 100 year floodplain is only about a foot deep. But the depth of the 100 year floodplain depth in the street of avenue d is 3.3 feet deep.

Martinez: Thank you, mayor.

Mayor Leffingwell: Councilmember tovo, do you have a question?

Tovo: I do. I'm sorry to go over this information again, but because they have demolished the interior of the structure, they will need a variance just to rebuild that. Is that correct?

If they just wanted to finish building out the inside of the existing structure, we would consider it a substantial improvement because it's the valuation, more than 50% of the value of the structure, that would be a floodplain variance and we would be talking the same thing.

Tovo: I know you covered this. I want to be very sure i understand. If we turn down this variance tonight they would need to wait a year to come back and apply for a variance to do the interior restructure?

Correct.

Tovo: Thank you.

Mayor Leffingwell: Are we ready to go to speakers now? All right. Linda good? These are speakers all in favor.

Tovo: I have one more question for staff.

Who has a question? Who has the floor? Councilmember tovo.

Tovo: Thanks. Would we have the ability tonight to speak in any formal way to a variance for the existing house?

Yes, I believe so. I'll have our attorney address that.

Mitzi cotton, assistant city attorney. Yes, your posting allows for it and if you were to decide to grant less than the renovation and addition and instead grant the renovation, you could do that tonight and that way they wouldn't have to wait a year if that was something you wanted to do.

[12:44:50]

Mayor Leffingwell: Councilmember morrison?

Morrison: That feels a little different than what i heard when I asked this question earlier. I thought that it was suggested that you would have some specific work to do before you could actually get it in shape. The variance in shape.

Depends on what's proposed. Let's say, for example, that there was an agreement to just renovate the inside of the house. That's somewhat simple because it's just an interior remodel. If a vote were to happen and it passed in that manner, yes, there would be changes to the plans, we would have to work with applicant on it and ensure

it's just an interior remodel and they elevate the house 1.2 feet above. Those are changes. But if it's something a little different than it just could applicant things to make those changes on the plans.

Morrison: Okay. Then

-- so I get it, that we could

-- I didn't understand that before, but we could make the

-- approve just doing a renovation on the inside and raising it up.

Or something else to whatever you might want.

Morrison: But if it's something else much different from that, you would want to come back and work it.

Unless it can be crafted in a way that is very clear and yes, we know what needs to be on the plans.

Okay.

Mayor Leffingwell: You still have to approve the variance with conditions. With limitations from the application.

Morrison: Exactly.

Martinez: Mayor, did you say there was a motion and a second on this?

Mayor Leffingwell: No. We haven't even been to the speakers yet?

Martinez: Okay. I thought I heard something different.

Mayor Leffingwell: No. I didn't say that.

Martinez: So obviously the applicant is here. I would suggest they strongly suggest that alternative option.

Mayor Leffingwell: All right. Linda good? Linda good not here. David connor? You have three minutes.

[12:46:56]

Good evening, mayor, city council. My name is david connor, I'm a hyde park resident, also the current development review committee chair. (Indiscernible) came to the drc earlier this year. They mentioned they bought a house on avenue d, the north hyde park area of hyde park. And this area is not subject to the local historic district guidelines. So when they contacted me, i assumed they wanted to demolish the house because normally in that part of hyde park that's what people do, they buy the small house and they demolish it. Well, they just wanted to add on to the house, and the drc pretty much said

-- was content with the plans. It met all the nccp state zoning standards and the design itself was pretty compatible to the neighborhood, so we felt that it was a good plan and they could go ahead and move forward. We didn't know anything about the fema floodplain or the fact that it was in the floodplain. So until they started doing what they were doing, everything just kind of came to a halt. What the neighborhood does not want is the house to stand empty for a year because it would become pretty much a blighted part of town. So we don't want that. We want a good solution to this. We were happy that they weren't going to demolish the house, that they were planning on the add on, and kind of make improvements to the house itself. So I'm here for any questions again. I think the applicant is here to tell us to speak.

Mayor Leffingwell: Okay. So chris dennis and bryan webber, you had donated your time to david. Did you want to speak? You originally would have had five minutes plus six minutes, 11 minutes. If you would like to take their time, their additional time, you can.

[12:49:04]

Thank you, mayor. I won't take up that much. It will be a long day, I'm sure. Just some relative points. This is a house that's only 700 square feet. We certainly respect and honor the floodplain and the environmental regulations, but at the end of the day, we're not really sure what to do. We don't know how else we can comply with some of the technicalities listed in the requirements for compliance in the floodplain section of the code. And I think that might be better explained technically by the engineer, mr. Ed moore, who is here to speak probably after i, but at the end of the day obviously what is a problem with the city right-of-way is obviously a problem that is impacting the adjacent private properties so we can't go and raise the street out of the water, but the house we can certainly raise, and we are proposing to do so to comply with everything under the sun. And I would just request that the council consider that the density factor is an unknown. You don't know once this house is finished if we were to approve the request tonight if it's going to be one person that lives there or three

or four. You just don't know. It certainly well could be one person living in a 2200 square foot house. I live in a 2200 square foot house and I'm single. So it's very possible. I think the density is sort of arbitrary a little bit in nature. And there has been a lot of heavy lifting done by applicant to comply with the maze of regulations and processes in place over at one Texas center. And since January of this year there has been a best I can tell from doing the research between different staff members and reviewing all the documents and communications, there have been a series of inconsistent processes recommended. For example, this particular issue wasn't even recognized by specific staff until well into the review stage. And not to disparage staff in any way, these things happen all the time, but at the end of the day unfortunately it's the property owner that's left on the hook to remedy it, and sometimes the only remedy is the unusual case which is what we have today, I think, which is a case that if you were to deny the variance as proposed, then essentially we're looking at -- then you were to agree to a motion or support a motion that would allow a model of the interior only, what are we left with? We've got a two bedroom, one bath, 700 square foot home on the northside of Hyde Park that's in the same area it's been in for 40 years. All we really want to do is add another 800, thousand square feet of footprint to make it more of a contemporary sized home that will easily fit in below what the average is for the surrounding properties and be of a reasonable nature. So I think we all kind of understand where this is going. I think with that I would just encourage you to consider those points and look at the late backup that we've supplied. It's got the engineering data and the cover letter response that I think mitigates some of the points made by the floodplain staff which we have enjoyed working with, but obviously we're in a position where we want to see something get built other than the footprint that's been in place. And I think at the end of the day that's all we can really do is hope that you see those points. Thank you very much.

[12:52:35]

Mayor Leffingwell: I'd like to make a couple of comments. A floodplain variance is different from other -- it's different from other kinds of variances. It's a health and safety law. The variance to it has to be based on health and safety. That's why it doesn't go to the environmental board, although you might think that there might be environmental issues because it's not an environmental variance. It is a health and safety variance. And going along with that, you know, we try to be as flexible as we can because we know a lot of times it creates a significant hardship, but we also have to think about the other. It doesn't affect you, just the property owner, it affects a lot of other people too. There are likely to be adjustments in flood insurance rates for everybody up and down the waterway. There are potentially real dangers to people, say, for example, living downstream of a structure that is built in the floodplain. I haven't decided what I'm going to do on this one yet. I'm going to continue to hear a little more about it, but I just wanted to make sure you understand we're not just talking about trying to punish the property owner or trying to restrict the property owner. It's a really big picture that you have to think about.

Yes, sir, thank you.

Mayor Leffingwell: How about Edward Moore?

Good evening, Mayor and Mayor Pro Tem and Council. My name is Edward Moore. I'm the engineer on the project. And I had a couple of things to say about the engineering issues. The street that this property fronts on is in the floodplain, and we're not able to engineer anything to change that. That's the one thing we can't change, but I did want to perhaps give some assurance that some of the other engineering related things are being addressed by this property owner. First of all, the construction that's going to happen for both the existing house and the proposed portion of the house will be done according to FEMA requirements, Federal Emergency Management Agency. And the house will be a pier and beam house on concrete piers, reinforced concrete piers that will be driven nine feet deep into the ground and raise the house over the floodplain by 1.2 feet. So the concrete material will be non-erosive and should withstand any flood force, should there ever be a flood that actually occurs on this property. Concrete piers will not cause erosion, they will not erode. They will hold the house. So from an engineering standpoint I think this foundation is going to work just fine. Also it has a special design to allow water to flow through the crawl space, and Mayor, you brought up one good point about is it this property going to decrease the volume of the floodplain and perhaps even cause an increase in the flow downstream? And as the staff member said, the owner has already removed a shed and another foundation from the property, and has increased the volume of the floodplain on the property, and there will actually be more

volume available to flood waters after this project is built. So no increase in flow or water surface downstream will occur if this project is built. Those were the two main points I wanted to make. The materials used and the means to raise the foundation above the floodplain meet fema requirements, and that the volume of the floodplain will not be decreased by this project. So that's what I have.

[12:56:35]

Mayor Leffingwell: Those are two very significant things to me. One, that you're -- the floor level I assume you're talking about is 1.2 feet above 100 year, 25 year? Above the 100 year.

Mayor Leffingwell: Okay. And also the fact that you have unimpeded -- basically unimpeded flow below the house so it's not obstructing with the way it's built with the concrete reinforced, it's more unlikely it's going to be swept downstream.

Yes.

Mayor Leffingwell: So those are very important to me. Thank you. Yes, sir.

Mayor Leffingwell: Those are all the speakers that we have. Councilmember martinez.

Martinez: I wanted to ask the applicant or the agent for the applicant, is this home being modeled for their own personal private residence?

No.

Martinez: Is it going to be a duplex, is it going to be student housing?

Negative. It's a single-family proposed project. The plans on file with the residential zoning department clearly show it's an addition after master suite on the footprint level, and there are technically -- because of the recent board of adjustment interpretation of what is a bedroom and what's not, it's technically a four-bedroom total, but they would be amenable to making it a two bedroom upstairs and a master downstairs because there's a jack and jill design currently with a third bedroom upstairs. But this is not for duplex, this use, the lot is not even big enough. It's a 5800 square foot lot. It's not for student housing. This is an opportunity for someone just to upgrade an existing house that's been in a state of deferred maintenance for many, many years.

Martinez: Thanks.

[12:58:36]

Mayor Leffingwell: Councilmember tovo.

Tovo: Can you just clarify for us, it was four bedrooms? How many baths?

The proposed on plan right now is a four-two.

Tovo: And the total square footage was?

The existing is just 720, 700. The proposed would be in the area of 22, 2100 with the 700 square feet addition footprint and going up from that another approximate 700 square feet, which would put us at just shy of the 40% far.

Tovo: Thank you.

Mayor Leffingwell: Okay. I'll entertain a motion. Councilmember martinez.

Martinez: Mayor, you know, we denied a floodplain variance not too long ago, less than a block away. I think that was substantially larger project that was even much more undesirable to some of the neighbors. I think we find ourselves in a difficult situation because if we don't grant something, they're in limbo for a year, but I'm not comfortable with the full model request. So I'm going to take a stab at making a motion to grant the floodplain variance and a remodel, but only for the existing structure as it is today. So that they can move forward and maybe come back later for an addition.

Mayor Leffingwell: Motion by councilmember martinez. Is there a second?

Morrison: I'll second that.

Mayor Leffingwell: Seconded by councilmember morrison.

Morrison: I have a question for councilmember martinez. I would

-- I think that staff also were talking about the fact that that house was being lifted up a foot, is that correct? And that was part of the plan. That would have led him to be uncomfortable with that variance.

The existing house is below the 100 year floodplain. So we would request that we would like it to be 1.2 feet above, which is what they're proposing doing with the development.

[13:00:44]

Morrison: So I would suggest that that would be part of our motion also.

Mayor Leffingwell: Is that friendly? Okay. So anything else? Councilmember tovo.

Tovo: I just want to ask the staff if they had time to work with the applicant in framing this request for the existing house, would there be any other condition? That you would place on it?

For just the interior remodel?

Tovo: Just the interior remodel.

Similar to the draft that's in your packet, the drainage easement requirement, the elevation certificate requirement, and we could add on to that to elevate the building so it's minimum of one foot above the 100 year floodplain.

Tovo: If I could make a request for to the maker and second that they incorporate those into today's motion or consider postponing it until the next meeting to allow our staff to make sure that there are

--

we drafted another ordinance that's not in your packet that does address this. Essentially the interior remodel. It has the added condition with the 1.2 feet.

Tovo: Thanks.

Mayor Leffingwell: Motion on the table with a can second. Further discussion? All those in favor, signify by saying aye?

Tovo: Well, I had suggested

-- I made a suggestion.

Morrison: Right. So just to be clear, we are addressing those extra two things. Yes, great.

Mayor Leffingwell: All in favor say aye? Opposed say no? Passes on a vote of six to zero with councilmember spelman off the dais. And I believe I skipped 106, so we'll go to 106.

Mayor, councilmembers, paul lewis, the office of telecommunications and regulatory affairs. The item before you would approve a new rate review mechanism or rrm tariff for atmos energy mid-tex division, a natural gas company that serves about 6600 customers here in austin. In 2008 the city participated in a coalition of atmos texas municipalities to approve a rate review mechanism that expired at the end of 2011. The proposed rate review mechanism before you now provides a negotiated review process for annual adjustments in the utility's gas rates in lieu of interim rate adjustments made under the gas reliability infrastructure program or grip. The rrm provides the city increased rate oversight compared to the grip statute and avoids expenses associated with the full rate proceedings. Under the proposed rate review mechanism, atmos will reimburse all of the city's cost to under take these annual rate reviews. This concludes my presentation. The staff recommends approval of the proposed ordinance tariff for the mid-tex division of atmos energy.

[13:04:05]

Mayor Leffingwell: No speakers. I'll entertain a motion to close the public hearing and approve. Councilmember martinez so moves. Mayor pro tem seconds. Further discussion? All those in favor, signify by saying aye?

Opposed say no? It passes on a vote of five-0 with councilmember tovo and spelman off the dais.

Thank you.

Mayor Leffingwell: On all three readings, barely. So it's well after

-- let's see. Let's go to number 93. 93. And evidently we held the public hearing open on this because we have a lot of people signed up to speak. Do you want to go directly to speakers? We can go directly to speakers.

Thank you.

Sydney programmer. Brammer.

[Inaudible]. I was here last time and last time I raised several general concerns about the increased density of this rezoning application, including quality of life issues, traffic and safety concerns, noise and light pollution. And the demographic shift from a quiet family oriented neighborhood to the spreading blight of inner city upscale single condos and apartments. I also raised concerns about the track record of eureka holdings at oak creek village and other properties such as the ridge creek terrace apartments in oak cliff dallas where multiple code violations have resulted in lawsuits by that city. But tonight I'm actually here on behalf of myself and other neighbors who live very close by this piece of property. With the environmental ecology concerns that I would like to focus upon. I am just a creative writing professor at acc. I'm not a scientist, not a biologist or botanist or environmentalist. I just know what I observe, and that is seeing ecosystems decline when human activity increase along an urban creek's bank. I've seen this even in my backyard vegetable garden that profound changes can take place when just losing a few hours of sun slight from a two story half block long building erected beside me. I've tried to immerse myself several weeks now in scientific reports to try to understand what the repercussions of a possible 60-foot complex of buildings along the eastern bank of bouldin creek will actually be. I've learned that local habitat and biological diversity in streams and rivers are strongly influenced by land use at multiple scales. In every respect the valley rules the stream, said hb heinz, author of ecology of running waters, a classic 1971 book that alerted americans to the vulnerability of our waterways and river scapes. Scientific investigators recognized that human actions are a threat to the ecological threat to waterways and ecosystems, habitat, water quality and the flora and fauna. The term urban stream syndrome has in fact been coined to describe the state of ecological degradation consistently observed in city streams throughout the world. You are well familiar in austin with measurable indicators of urban creek degradation like impervious cover, temporary changes, levels of pollution, etcetera. But there are other considerations, including the loss of sunlight on urban creeks as building heights increase along their shores. I understand that a stream impairment model for austin urban streams is being developed through a recently developed collaboration with the u.s. Fish and wildlife service and the environmental conservation alliance that will probably include an assessment of riparian wooded buffers or the lack thereof and water quality.

[13:08:33]

[ Buzzer sounds ]

Mayor Leffingwell: (Indiscernible).

Austin has been a leader in suburban and urban water protections. Let's be careful not to be taken advantage of by this developer. Thank you.

Mayor Leffingwell: Colina malone? There are evident I a lot of people named colina malone.

It's a very popular name. Should I start now?

Go ahead.

All right, thank you. Good evening, my name is colina malone and I'm the president of oak creek tenants association capital idea graduate and an austin interfaith leader. First and foremost I want to take a quick moment to thank a few people. Jesse postpone itemsner and kirk (indiscernible) and all of the austin interfaith staff and volunteers along with key leaders with the tenants association such as hope, pauline, eng and sylvia. The tenant association's lawyer, robert doggett and the staff at texas rio grande legal aid, the bouldin creek neighborhood association, and our neighbors at bouldin creek. That's a partnership and unwavering support the tenants at oak creek, we wouldn't have achieved what we've been able to achieve in a short period of time. I want to just take a moment to reflect what led us here today. I attended a meeting in february this year. The purpose of the meeting was to discuss the future of oak creek village. There was a wide range of people who attended the meeting, many individuals were the tenants, bc and a, neighbors throughout there, austin irrelevantter faith leaders, various religious organizations and the developer, eureka holdings. During this meeting many people spoke passionately about the development of the property, however after I left I reflected. I noticed one major thing was missing, a cohesive voice for the tenants. Since that meeting we have been very busy. I partnered with austin interfaith to found a tenants association. Together we have been working to ensure the redevelopment of 2324 wilson street and it's a model community for maintaining affordable housing and preserving our local communities. The tenants association held our very first meeting in march. This meeting was

imperative to the growth to not just the association, but to the community. After all, oak creek village provides 173 homes to 600 plus people and that includes 250 children. After months of negotiations with eureka organizing our community, developing our base, after a few speeches in front of the planning commission and the city council, the tenants organization

-- tenants association is proud to announce that we've reached an agreement with eureka.

[13:11:33]

[Applause]. Eureka intend to execute a private restrictive covenant today. The agreement will set a precedent for positive growth in austin. This covenant will provide key protections to the tenants and neighborhood, including keeping affordable housing through the hud contract, safety measures increasing from 50 hours of patrol to 40 hours of patrol. Safe forwards for tenants during the relocation period and gauging a qualified quality program for youth for majority of the 250 children.

[ Buzzer sounds ] we commend the city council and planning commission who worked diligently to ensure community is protected. I strongly believe the redevelopment of oak creek village won't just lead us to a better community, but a model for the city of austin.

Mayor Leffingwell: Thank you, your time has expired.

Thank you.

Any questions?

Mayor Leffingwell: Councilmember morrison.

Morrison: I wonder, i have a feeling that we could probably count on some people being willing to donate some time to you, but could you briefly finish? I want to make sure you got all your important points in?

Thank you. I appreciate that. The tenants of oak creek village, the tenants association, bouldin creek neighborhood associations, our neighbors at bouldin creek and thousands of austinites are watching this project closely. Together we will work to ensure that eureka and future developers in austin are accountable to the people of austin to keep their promises.

Morrison: Thank you for that. [Applause]. Mayor pro tem, I

-- it's been an incredible journey for you all and I especially want to thank the tenants who are here that maybe haven't been involved in city hall things before for really investing in your future and really which is the future of austin. So thank you.

Cole: Good job. Thank you. [Applause]. Thank you, guys. Next up to speak we have curt mitchell.

[13:13:34]

Just stay where you are. [Laughter]

curt is a familiar name as well.

So mayor pro tem and councilmembers, we again want to applaud and call out the hard work of mr. Denisey, eureka, the owners, the planning commissioners who have worked with us and your own offices who have worked with us. We think this is indeed a model development that is going to improve the quality of life for the tenants, for the neighborhood and the neighborhood schools. It will lead to a more liveable neighborhood and stronger

-- a stronger austin. And we want to highlight it because we do think it will be a model and we want to thank you for your work because it's lead to a better project and it didn't just happen. A very different outcome could have occurred. We could have just simply

-- the developer could have just chosen to develop that market and they didn't. They could have chosen to not work with us, but they did and it led to a better project and it was because of the organized work of the tenants, the neighbors and the institutions in the neighborhood. So we want to commend all the folks who worked on it and we want to challenge all of us, the neighbors, our institutions, our development community and our councilmembers and other elected officials and appointed officials like planning commissioners to do more to make projects like this happen. And to really ensure that we're making good development like this happen, one that improves the quality of life, because the reality is that this may not have happened owe something very different could have occurred, but because many people chose to work hard and do more than just what was

easy, we got an exceptional project and we commend all of you, urge all of us to work harder to make that more frequent with the outcome. Thank you.

Cole: Next we have John Denisey. And Steven Wright has donated time to you. Steven, are you here?

[13:15:36]

Thank you, Mayor pro tem and councilmembers. I'm John Winstead on behalf of the developer and I want to chime in and also say that we were very honored to be able to work with the Oak Creek Village Tenants Association, Austin Interfaith, the Bouldin Creek Neighborhood Association. We have reached agreements with all of those entities and we're proud to be here speaking to that. I think that they spoke very eloquently about what this project and what the agreements stand for, and we're proud to be a part of that. This is I believe the first one for one replacement of affordable housing, federally backed affordable housing in Austin in a way that's less than a mile from downtown, in a very attractive neighborhood, and in a manner that is very innovative. Coupling market based housing as well on site. So we're very happy about that. I'm happy to answer any questions you may have. [One moment, please, for change in captioners]

because our acreage could vary because a quarter of our property line is the creek, so with that, again, we thank you.

[13:17:39]

Mr. Denesse, what are you asking 3e to be bumped up to?

I believe now it is 54.06 or if you did 56, that would be fine, but of course the maximum 486 would still control.

Cole: What are your comments about 3f?

To believe it exactly as it is.

Okay.

Mayor Leffingwell: Council member Morrison.

Morrison: I would like to ask our staff why the 54.07 is in there because it's not like the land

-- the boundaries are going to change so 486 seems to define it.

Council member, the units per acre is

-- when we do have a unit cap with residential development, we list the unit cap, and we also list a unit per acre in the ordinance. That is to be able to track density on a property over time, knowing that it may resubdivide in the future, so that is

-- that is a practice that has been in place since I have been here in 2000.

So in cases the resubdivides.

Yes, in case the property resubdivides or is divided in phases is just a way to be able to track the amount of density that's occurring on the problem so that any future owners are aware.

Morrison: Okay. I guess I am a little uncomfortable because if you bump it

-- I understand from Mr. Denesse your discomfort of that is the exact surveys change a little bit with creek source or something like that, so you don't want to be caught at actually getting it limited to 485 if, in fact, the acreage is off by a little bit. Is that correct?

[13:19:40]

Eyes, the current survey is 8.991 on it but on the zoning case it is 8.88. We would lose 6 units if that were the standard that a site plan reviewer looked at and I don't think we want to limit the units that way.

Morrison: We don't. Everybody

-- everybody knows it's 486. Right. I

-- could we just put it in at least that the 486 controls, because I am just

-- especially if we are going to put in a little bit of a buffer so that when you are gone and all of these people are gone and it comes back, somebody doesn't come back and say, well, in must be a mistake. It really should be 495 or something like that. Could we

-- does that make sense to you, city attorney?

Yes, but I think the safest practice would be for us to agree on some precise language tonight with respect to your observation and comments, council member morrison. If I may ask a question, though. Is the desire of the council, in light of mr. Denesse's remarks tonight to leave the 54.07 as it is in eu or are you contemplating modifying that.

I think we are contemplating modifying that.

Yes, I believe mr. Denesse is looking at modifying it from 54.07 to 56.

So if

--

Morrison: Okay. This makes me

-- do we have any idea how many

-- how much leeway

-- how many acres are we talking about? It looks like 90. 8.991, and the way it is now at 54.07, if you look at

-- calculate that out it gets you to 486.14. That's how tight it is so any

-- you know, that's going out three decimals on the acreage so if we lose something, we are losing units. So 55.

[13:21:44]

Morrison: Okay. If we can do 55, that will make me feel a little more comfortable.

Thank you.

Morrison: We want to say 55 but that for the 486 controls?

I would suggest adding, then, in that case, to paragraph f, at the very beginning the following words:

Notwithstanding the provisions in paragraph e above, comma, and then development of the property may not exceed 486 residential units.

Morrison: Sounds perfect, city attorney.

Mayor leffingwell: Okay. Let's go to our last speaker. Cindy colleen.

Good evening, mayor, mayor pro tem and council members. My name is cindy colleen, president of bouldin creek neighborhood association, the neighborhood association of the creek housing complex was presented to us in december of last year. As I testified in the past, many neighbors opposed this redevelopment but came around to support oak creek's affordable housing application in march in order for our neighborhood to retain its unique mix of racial, cultural and economic diversity. However, when the zoning application was submitted on march 1st, neighbors and bcna have many concerns about the increases in entitlements, especially the density to height, vehicle parking and access and pedestrian bicyclist safety. Bcna sent several months engaged in a public process with neighbors including the oak creek valuage

-- village tenants to learn more about the specifics. Early on in the process, neighbors were opposed to the increase in density and height and most neighbors were unanimous in their concerns about safety. Neighbors remain concerned

-- you heard from sidney tonight but bouldin residents and bcna officers have proven why bouldin creek is very special, at least my opinion. Neighbors stayed open to ideas and had to mitigate our concerns and remained active and engage in all of the public meetings and processes we had to discuss ways in which we could work with the developer to overcome our concerns. Neighbors came together in solidarity to support the request of the newly formed oak creek village tenants association and bcna officers, all of us volunteers worked tirelessly to reach a solution that would be embraced by the developer, the tenant, the immediate neighbors and our community. As of a few hours ago, we have reached an agreement with the applicant and we are about to execute our private restrictive covenant that has terms mitigating most of our concerns. So we've also voted that we officially, as the steering committee took a vote right before I came here, that we are not opposed to the zoning application. Thank you.

[13:25:01]

[Applause]

mayor leffingwell: Thank you. That's all of the speakers. Entertain a motion on item 93. Council member tovo.

Tovo: I have a last question for mr. Denesse and then I do want to make a motion. Mr. Denesse I know it was of interest, I believe of the bouldin creek association and perhaps the tenants association to have some language about a relocation plan in the documents, the city documents, city legal has indicated there is not a mechanism for doing so. But

--

I was going to say, we offer to do that on

-- we tried to do it in a couple of different ways, to try to make it work. It was something they didn't feel comfortable with, but i mean, this property is under the federal uniform relocation act. There will be a plan for the relocation and that

-- that plan will be provided to all of the tenants 90 days before there is any relocation. So we

-- I am sorry we weren't able to find a way to put it into the official documents for the city, but it was not for lack of trying on our end.

Tovo: And I

-- and it covers the points I think would have been included in any language and that's what I wanted you to do is just make this part of the record explicit the commitment the developer has to ensure a smooth transition in relocation for the tenants on that property. So with that, mayor, I would like to move

-- it is really a pleasure to move approval of this zoning case and i know many of you have worked very, very hard and just it's really been interesting to see various stages of

-- of those ongoing discussions and I think it is going to be a development that bouldin creek can be really proud of and, really, that the community can be proud of so I want to extend my thanks to the bouldin creek neighborhood association, austin interfaith, and everybody else this will be of quality for all of the the residents there, those who are there right now and your new neighbors. Thank you.

[13:27:22]

Mayor leffingwell: Council member tovo moves to close public hearing and approve on second and third reading. Second by council member morrison. Council member morrison.

Morrison: Yes, I want to echo my thanks and it is very interesting to watch and I am sure there is a whole lot I haven't seen but to watch the ebb and flow and the frustration on various party's sides and sometimes it looked like it was going to fall apart so kudos to everybody, the developer, all of the folks who live there, the neighborhood association and for you all, for the neighborhood association, the tenants association, to develop such a great relationship, and, you know, we have talked recently about the importance of preserving affordable housing and the fact that this is a one for one replacement and presumably the first in the city. I

-- that's

-- that's a fabulous opportunity and it gives me great hope for the city that we can actually accomplish something like this and help we are able, like kirk said, to be able to use this as a model and it looks like mr. Denesse wants to make one more comment.

I want to make sure

-- i don't know if the motion contains the language that the city attorney suggested or not.

Mayor leffingwell: Confirming that with the maker and the second. All right. It does. All those in favor, say aye. Aye. Opposed say no. Passes on second and third readings on a vote of 6-0 with council member spelman off the dais. [Applause]. Council member riley.

Riley: Mayor, I would like to go back to an item we did a short while ago, that was item 96, or rather

-- yes, 96, 3447 northland. I understand the owner and the agent in that case would be interested in continuing to work with the neighborhood to see if something can be worked out and, of course, since we denied the zoning, any new rezoning request would be prohibited for, I think, an 18-month period, and so i wanted to suggest that we consider rescinding our action and indefinitely postponing.

[13:29:38]

Mayor leffingwell: We can have a reconsider, don't have to rescind.

Reconsider our action and indefinitely most pone the case so as to allow continued conversations between the owner and his agent and the neighborhood to see if they can't find common ground so that we can get up a project here that really would be an amenity for the neighborhood. ?Oork I will second.

Mayor leffingwell: Motion by council member riley to reconsider and indefinitely postpone item number 96. Second by the mayor pro tem. And is there any discussion on that?

Tovo: Is that the same motion or is he making a motion to reconsider and then we are going to have discussion or is it all in one?

Mayor leffingwell: I believe we can reconsider and state the motion that's being reconsidered to do. Yes. No, no, we are reconsidering and postponing indefinitely.

Riley: Okay.

Mayor leffingwell: All those in favor, say aye.

Tovo: I have one comment

--

mayor leffingwell: Council member tovo.

Tovo: I want to say this is the second time today we have reconsidered the item and some of the stakeholders are long gone and that gives me

-- it concerns me when we are reconsidering items and reopening them and potentially having a different outcome without the

-- without the parties who are involved in the first discussion.

Mayor leffingwell: It is provided for in roberts rules to be able to do that upon discovery of enough information and upon

-- the motion has to be made by someone who is on the prevailing side. Previously. Council member riley.

Riley: Mayor, I share that concern. I wish we could have somebody from the neighborhood here. I did hear from someone from the neighborhood, ms. Warner, shortly after our decision and she mentioned in her email that she hopes they can get together with the developer and figure out something that will work for both. Immediately I responded and asked if she would be open doing that sooner rather than later so unfortunately I haven't heard back yet so I don't know for sure. I will say that I hope we don't

-- I really do not want us to just go through a repeat of what we had tonight. If the neighborhood proposition remained the same and I hope the owner and his agent won't put us through the exercise of going through the same thing, so if it does come back to us, I hope if it comes back to us, it's because there is significantly greater neighborhood support as a result of discussions that have taken place, recognizing that both the developer and the neighborhood have a mutual interest in working something out that will be an asset for the area.

[13:32:16]

Mayor leffingwell: All those in favor, say aye. Aye. Opposed say no.

No.

Mayor leffingwell: Passes on a vote of 5-1. Council member tovo voting no and council member spelman off the dais. 105. It is all we've got left, so ...

Good evening, mayor and council, jim robertson with the planning and development review department. I have no formal presentation for you tonight. We gave you a briefing on this very same item a week ago today. I only want to briefly introduce you to what

-- what you have in front of you. You have, first of all, a draft ordinance which was provided in the backup and we actually provided hard copies of it to you on tuesday at your work session. There is also a memorandum from our consultant team, hrna, which provides background on the economic recalibration study that we did in conjunction with our work in developing the ordinance. And then, finally, there is a yellow motion sheet that erica just passed out. The ordinance itself, the draft ordinance contains all of the elements that you directed us to bring back to you in

-- in march, and i guess april of this year. It includes one element that would amend the code combining district so that that combining district could no longer be used downtown as a means of obtaining additional height or floor area. The ordinance also repeals the 2008 so-called interim downtown density bonus, and it replaces that with a new set of

-- a new code provision which actually would be inserted in the land development code in the exact same spot, the terms and the details of which are contained within the ordinance you have in front of you and then it also sets the initial bonus fees and i say initial because they would be subject to revisiting recalibration over time and that would be done by staff and presented to you in the form of an ordinance for your consideration and potential approval. The motion sheet reflects

-- primarily reflects the recommendations of the planning commission, when the planning commission considered this, I believe it was June 11. They made

-- in addition to recommending approval, unanimously recommending approval of the proposed density bonus amendments, they also made several recommendations. The staff recommendations deviate a little bit from those and the motion sheet is designed to show you what the planning commission recommended and what our staff recommendations are. You also received in the last few days memoranda from Betty Spender, director of the planning and development review department that specifically addresses in more detail a couple of issues that were addressed by the planning commission. With that I will close and i will be happy to answer any questions that you have.

[13:35:48]

Mayor Jeffingwell: Well, we have several speakers signed up. Might as well go to those. Ann Howard. So we do have 42 minutes left of speakers, so if you listen to the speakers ahead of you and try not to be repetitive, we would appreciate it.

I am going to jump to the sixth of my sixth paragraph. My name is Ann Howard and i am the executive director of the ending homelessness coalition and I believe it is in the best interest of our effort to end homelessness, to kick start your strategy for permanent supportive housing. At the rate we are going, it is just going to take way too long to get enough units on the ground to house the chronically homeless, those folks who are very difficult to get into housing, so with that yellow sheet you are looking at, that density bonus can be reviewed in 3-5 years, whichever you choose and I ask you tonight to direct all of the funding downtown to be used for low barrier housing first psh and within 3 or 5 years when you re've reviewed this

-- you've reviewed this you determine, wow, we built enough or we are using bond funding and general revenue and we can now loosen up the density bonus to fund a continuum of things or other items, also. You could do that in 3 or 5 years, but right now, we need to kick start the development of low barrier psh for the chronically homeless if we want to end homelessness. Thank you.

Mayor Jeffingwell: Thank you. Mandy Damayo. Following Mandy will be Joe Katherine Quinn.

[13:37:51]

Mayor, Mayor Pro Tem, City Council members. I am here Mandy Damayo on behalf of Housing Works and I urge you to support agenda 105 including establishment of the streamline downtown density program and removal of the code provision to achieve additional density. The HRNA recommendations for the downtown density bonus calibration are conservative and based on widely vetted assumptions. It is important to note that HRNA met with stakeholders, for appropriate and nonprofit developers and others in determining these assumptions and they continued meeting in discussions throughout the process of creating the pro formas and developing their recommendations. It is important to note this ordinance before you is weaker than the affordable housing task force recommendations which were developed collaboratively by for profit and nonprofit developers and other stakeholders over a one year period and subsequently codified as the interim density bonus requirements. Those requirements asked for across the board fee in lieu for all parts of town and also required in residential development, commercial development. Some argue the fees are too high. Others argue it is too low. At this point in the process, considering the amount of public input and analysis, it is more important

to actually start the program with the understanding, as ann mentioned previously, that it will be we calibrated within a reasonable amount of time, whether it is 3 or 5 years. We urge you to accept hrma's downtown density bonus recommendations and move forward. And it also supports staff recommended language in use of the fee in lieu and you have that from the betty spencer, providing permanent housing for the chronically homeless is an established council goal and enormous need. However it is important to note housing needs are throughout the spectrum and all of us. By organizing the funding rather than restricting the funding, council will understand the importance of the issue but provide staff some flexibility in administering those funds. Thank you for your consideration.

[13:40:10]

Mayor leffingwell: Jo katherine quinn and banoyd rashard will be next.

Thanks for your time tonight, mayor leffingwell and city council. I agree with ann howard in that we have been talking about this for a long time, about providing enough supportive housing for the scanically homeless -- for the chronically homeless in our community. I wanted to just underscore what ann said and then -- and then just give you a little bit more. Carrot house has been in a partnership with the downtown austin alliance. We approached them a couple of years ago about joining with us to actually provide housing and support services for the very people that they would love to see off the streets of downtown austin, and so we would we. And so we partner together and have successfully housed 20 of the most chronically homeless people that used to reside on the streets of downtown austin and now they are housed stably and these are some of the most frequent offenders of the downtown austin community court who is the other partner in this partnership housing project. So it can be done, but we are having an increasingly difficult time finding people that have housing units that will actually make these housing units available to the people who need them the most because the people who need them the most are not the people that any landlord wants living at their property. Because these are people who have a lot of high barriers to housing: Terrible credit history. Terrible eviction history, terrible criminal history, mainly because they have been homeless. You get a lot of criminal history when you are homeless. And so we need landlords and we need property owners that -- to have some restrictions to say they must absolutely operate their properties, utilizing evidence based practice which is called housing first. Housing first says people get housing that don't -- they are not screened out for any reason other than the fact that they are chronically homeless. That is the only criteria that they have to meet, is that they are chronically homeless, they get in, and we currently don't have -- well, carrot top has one landlord and we have 17 units that will allow us to do it in exactly that fashion. The rest of the 153 units that we operate, we have to have some screening criteria, so I like the language that the staff suggested to use these fun exclusively for permanent supportive housing for the barrier.

[13:43:40]

[Buzzer alarming]

mayor leffingwell: Thank you. Banoyd r a shard and the next is nancy mcdonald.

Good even, mayor mayor and mayor pro tem. Council members. I work where we specialize in downtown real estate and we are modeling the pricing in order to successfully market them. I am here today in my role as a member of the policy committee at the real estate council of austin. We would like to point out that hrna's range of returns are roughly 25% higher than any condo project currently being analyzed to be developed in the near future. Hrna courted a range of returns of \$490 to \$572 a square foot which is entry level price point for the last three luxury condos build, four seasons, austin austinian and the w. There is currently the need for that type of product in the market. There is the need for more mid market, slash entry level condos whose price points are 375 to \$400 a foot range. If we took that into account, I think hrna's estimate of the 10-dollar fee being feasible may not necessarily hold true anymore. It is important when considering affordable housing that we not only consider the working class, the homeless and the other people in first needs but also the middle class. It's important for vibrant downtown to have a diversity of residents. And in doing so

-- or by hindering the middle class and housing diversity, we are directly going against the intents of imagine austin. And thank you for your time.

Mayor Ieffingwell: Nancy mcdonald. Following nancy will be barry lewis.

[13:45:40]

Good evening, mayor, mayor pro tem and council, my name is nancy mcdonald. I am the interim executive director for the rosedale council of austin. As you may know, we are a nonprofit member based organization and I am speaking tonight on behalf of all 1500 and 49 members. Our position today is that we oppose the 10-dollar -- the in lieu per square foot and we support no more than 5 or \$6 for the water street district and \$3 for the other districts downtown. It is our contention that 10-dollar fee was calculated on assumptions that do not meet market reality and as the speaker previously pointed out. For this program to work, a result in revenue going to the affordable housing trust fund, we have to strike a delicate balance so there is not a disincentive. We want it to work. We want that fund to be

-- to have a source of revenue, so our point is that in order for it to work, we've got to have a more reasonable fee in lieu, because my most critical point is that if this will simply stall any development in the core water street district for sure at the 10-dollar level. Downtown condo projects, my members tell me, get a larger return, anywhere from 5-15%, that's it. You add 2 and a half percent increase, which is what a 10-dollar in lieu of fee would result in, to that margin, and it's a deal breaker. So we respectfully oppose that portion of the program and hope to find a fair balance and thank you for allowing me to address you.

Mayor Ieffingwell: Question for you.

[13:47:41]

Morrison: You have some numbers there. Did I hear you say you thought some of the other numbers could be higher but the \$10 should be lower?

Correct. We

-- our opposition is that the \$10 should be brought down to 5 or 6 and the rest of the districts in the downtown area should be a 3-dollar. So \$3 and then 5 or 6 for the core water front. It is our position. Is that what you meant?

Morrison: Yes, I was interested in what your

--

sorry, I went through that quickly. There is a letter from our president that went to all of y'all this morning that outlines that.

Morrison: Okay. Great.

Thank you.

Mayor Ieffingwell: Barry lewis. And following barry will be jennifer mcphail.

Mayor, mayor pro tem, members of the council. First I want to thank you for your time and your service and the opportunity to address you on this important issue. I absolutely agree w ms. Howard. I would urge you in this -- in this first period, this first three years before all of this is recalibrated to dedicate these funds to low barrier permanent supportive housing for the chronically homeless. That complies

-- that would comply with the previously announced policy of this council and of the downtown austin plan. It's a critical need. It's not being met. This will provide a funding mechanism and I urge you to use it. I have a second comment. I have no statistics to give you, no

-- no profit margins to offer. Only some commonsense. The

-- the ordinance is recommend, or as proposed, says no fee for commercial developments. And I don't agree with that. I think that if you remove the density bonus payment from commercial developments, basically what you are doing is removing all of the far limits. Secondly, if greater far has no incremental value, developers wouldn't ask for additional far. And last but not least, commercial development creates housing demand, and you

-- by

-- by excluding the fee in lieu or the fee in return for the additional far, you are at the same time depriving the city of the funds that it needs to meet the housing requirements that it has so often recognized. Thank you very much for your time.

[13:50:56]

Mayor leffingwell: Jennifer mcphail. All right. Linz kosta adams.

Interesting spelling of my name but I appreciate the effort. My name is lindsay costa adams and a leader of austin interfaith and a member of saint david's episcopal church and I moved to austin to go to graduate school and working as a social worker for a local agency. I witnessed effects of homelessness, housing affordability and financial constraints on children during our country's economic crisis. I value austin year after year. We have been named one of the top cities to live in. I love that we are moving toward a greener, more sustainable city and that we value healthy living but i have got to be honest. As a single working woman, just out of graduate school with a starting social worker salary, I fear that my place in austin may not last too many more years. It won't be because I lacked opportunity for professional growth, fun activities like paddle boarding or apa park for my dog to play but because I can no longer afford to live in the city with a master's degree and working full-time, nearly 50% of my monthly income goes towards apartment rent already. And just recently, from last year, the 40-dollar increase in my rent is a big chunk of my monthly income. I can only imagine what that might look like for single mothers, working families and folks without a college degree. I am 24 years old and I want a family soon. I should not be pushed out of the city due to rising costs of rent when we have the tools right in front of us to keep austin affordable. I believe there is a way to make the city more affordable and that this would be best for all austin citizens. Codifying the downtown density program is a way to keep austin affordable. Should we ask taxpayers and voters to vote in a affordable housing bond in november without also asking businesses to support families and individuals livin in austin. As it commands us, share your food with hungry and when you see the naked clothe him, any amount of money paid into the affordable housing trust fund is necessary, as it stands, the downtown density program does not require each type of development to pay into the affordability affordable housing fund p. Building more hotels an offices will not relieve the pressure on your housing stock so why should we incentivize those programs without requiring an investment in our affordable housing. We believe all development receiving increases in entitlements should invest in our community's affordable housing. In addition, we support the 10-dollar fee in lieu but believe the suggested 3-dollar fee for the periphery of downtown is so low that it would disincentivize on site affordability. And we also support using this money to provide a broad spectrum of affordable housing not solely dedicated to permanent supportive housing but also partially. We vote

-- please vote in favor of codifying the downtown density bonus program while revising it to require not only residential but all developments seeking increased entitlements to provide on site affordability or pay the fee in lieu. Thank you for your time.

[13:54:28]

[Buzzer alarming]

mayor leffingwell: Stewart hersh. Following stewart is charlie vets.

Waiting for a picture to come up, mayor, before i start, if that's all right with you. Mayor and members of the council, my name is stewart herry hersh and like most in austin, I rent. I am here asking you to reject the staff consultant planning commission's recommendations and approve alternate recommendations offered by the downtown commission, which you probably didn't get in your backup, the shuttle roundtable which you didn't get in your backup and others which I attached for your review tonight and i know it's late. This is the view of downtown from a new apartment which is 1.1-miles away from the downtown planning area and where the rent will be \$350 a month for the poorest among us. I have provided you as part of a barkup and analysis of the relative costs of wood frame construction, both downtown and close to downtown that is not available in either your staff or consultant reports. That's page 3 of your attachment. It is based on open records that are on your website. As part of your backup, I am providing you a path for generating funding for housing the poorest among us, either downtown or close to downtown in the current fiscal year and in your last two budget years before the

10-1 council is elected. If you approve the staff consultant planning recommendation instead of a recommendation that builds on the good work of the downtown commission and the roundtable then the 10-1 council will come into office with no revenue from downtown density bonus fee in lieu payments, so the choice is clear. Modify current ineffective policies to remain ineffective which is the staff recommendation for you tonight or start generating some revenue to enhance housing opportunities for the poorest among us. And given the fact that you probably won't do that, I leave you with the words of my good friend, Pete Seger who says, because who after all there is no such thing as pure objectivity and there are two sides to every question. Of course in my opinion, there are two sides to a piece of fly paper, too, and it makes a great difference to the fly which side he lands on. Thank you very much.

[13:57:23]

Mayor Leffingwell: Very good. Council member Morrison.

Morrison: Stewart, I have a question for you. We did see the roundtable and the downtown commission, they have come through and I am just trying to remember exactly what they were and how they differ. Can you help me remember? I think that they actually talk about focusing the money on the central business district. That's one of the main changes, right?

I have an email from Sunshine Nathan, who sits on the commission and co-chairs the Chodo roundtable and he said, the Chodo roundtable supports and the downtown, fee in lieu and CBD within two miles of Congress and 6 because it isn't apparent in appealing current ordinance that that geography will remain in place. Secondly the fee in lieu target people at or below 30%, including homeless, people with disabilities, seniors and families with children and the downtown commission modified that by giving a priority to low barrier homeless that you have heard about earlier. They recommended that the fee in lieu applied to all buildings, not just residential, that

-- that the

-- that the adoption enforcement procedure for properties that choose to do downtown affordability that which as the stakeholders and the citizens overlay that calls for progressive enforce. For affordability when people don't live up to it and they specifically require that anyone who chooses the on site affordability model be required to accept with today we call housing choice, what we used to call section 8 vouchers and make that consistent with city policy and the other thing they disagreed was the planning commission recommendation which is before you that says that the collusion for affordability includes not only rent but transportation and utilities and everybody in the business thinks nobody can make the program work if that were to be applied because it is not used anywhere any time in Austin, Texas ever. So those are the major changes from what I got from Mr. Nathan.

[13:59:54]

Morrison: Thank you, because I think

-- looking at all of these different options that are around, to me, two of them

-- I mean, one of the main things is the issue about targeting the area.

There is one I left out. They asked that you

-- while you are considering the recalibration of the PUD ordinance, that if this is as ineffective as some of us, that believe it will be, that there not be a deferred option to PUD, that gets you around what you are going to spend time talking about tonight.

Morrison: Okay. Good. Thank you.

Thank you.

Mayor Leffingwell: Chare Billbrice. Following Charlie.

Mayor and Mayor Pro Tem, I am Charlie and I am the executive director of the downtown Austin Alliance, downtown property owners association and as I

-- as I think you know, we have had concern that the density bonus program might conceivably be a disincentive to build additional density in our downtown. But as it has become very clear that it will be the council's wishes to have a density bonus program, we respectfully ask that some economic modeling be done because it is imperative that for the program to be successful, for it to be a win win for the city in building a tax base and a win for additional community benefits, that that calculation of a dollar per square foot and so forth, fee in lieu be set

very carefully. You have done that, around we have now received the results of that economic modeling, and we accept that and we think that will give the community the best chance for this program to be successful. So we, therefore, are supporting the draft ordinance as it has been drafted. Now, we are asking for one -- one amended change, and it's a very subtle change from what your staff is recommending and that is, we would like very much for the funds generated by this downtown density business -- downtown bonus program -- density bonus program to be designated specifically to provide or build low barrier housing first permanent supportive housing for the chronically homeless. It would not be necessary to designate that if the previous track record the last three years had not pretty much ignored that specific population. That population is not getting housed with our affordable housing project. It was adopted as a priority back in september of 2010 in the permanent supportive housing plan. It was specified those folks should have priority. They simply have not because it's more difficult to do that. But we would like -- we would respectfully ask that you designate those funds specifically for that population. Thank you very much. [14:03:15]

Mayor leffingwell: And as I

-- as I read this, that's what the planning commission recommended?

Yes, sir.

Mayor leffingwell: Thank you.

We would simply expand on that definition a little bit, but that

--

mayor leffingwell: Adding the low barrier, adding low barrier and for the chronically homeless?

Yes, sir.

Mayor leffingwell: Is that

-- does that make a difference, chronically?

Yes, sir.

Mayor leffingwell: Okay. Thank you. Bill brice.

[Indiscernible]

mayor leffingwell: Passing. Ed mccourse. Following ed will be heather way education. Heather way will be next. Good evening, mayor and mayor pro tem. My name is ed mccourse and on the board of echo and i spent quite a bit of time over the last five years speaking from this spot to y'all about housing and homelessness and i appreciate y'all letting me talk more about this. I am cheer to support what charlie bets is asking for and the reason is because of what he alluded to. In 2009, all of you except council member tovo were sitting here and maybe council member tovo was out here, when bill hopson came out from seattle and talked about the 1811 east lake project, a housing first project with great success up in seattle. Then, as charlie mentioned, in 2010, we adopted a permanent supportive housing strategy. It included trying to really serve the hardest to serve. So ever since 2009, this community has known and the city has known what low barrier housing first is and it has been a priority. And, yet, in the five years, the four years since that has happened, city funds, whether it from the go bonds, general funds, any other projects that are overseen by nhcd have built zero psh housing first units and the reason is, because it's hard. So we are asking you to give us three years. Give us five years. Because what we have seen and what you all have seen is if you put the target out there, we have got great developers. We have great agencies. They will step up and they will help meet that challenge. But if we say it's anything less than that, it's a little bit easier to accomplish, that tends to be where you try to go because of all of the funding you have to match up. So this is an opportunity

-- and I want to thank the daa for helping push this and for making it a priority before you all, but it is an opportunity to take some time and see if we can really get done what we've heard about for five years. It's been proven out by data in other communities that it works and we can make a difference. So thank you for supporting that and we appreciate your time tonight.

[14:06:03]

Mayor Ieffingwell: Thank you. Heather way  
-- council member morrison.

Morrison: Because mr. Mccourse spoke so specifically to the issue of whether we've made any progress at all, I wonder if I can ask staff to come and provide your perspective on serving the very hard to serve, the most vulnerable, the chronically homeless, the folks who need low barrier housing, and how

--  
yes, betsy spencer, director of neighborhood housing. I apologize. I am looking for my pipeline information. I am not seeing it.

Morrison: Would it be better if we ask you to come back later?

Yes.

Morrison: That will be fine. Thank you.

Mayor Ieffingwell: Heather way and following heather will be john wright.

Good evening, mayor and mayor pro tem and council members. Thank you for your time today. I am heather way and a member of the housing works policy committee and also on the downtown commission and I brought a picture of my son, ben, who is going into third grade who is about to turn 8, and when ben was a baby is when the city council started looking at this issue of

-- and started studying issue about what is the appropriate fee in lieu and how we are going to get in place a downtown density program. In 2007, when ben was two, the design commission studied this issue and made recommendations to adopt a downtown density bonus program in 2008, when he was 3. Mandy mentioned incentives task force which recommended 10-dollar fee in lieu across downtown. That was a consensus, included folks including the rika president from taylor. When ben was 4, in 2009, it was studied and issued directs for downtown density bonus program that included 10-dollar and 5-dollar fee in lieu for residential development across town that was based on an economic analysis. And then today, in 2003, you have before you yet another economic study, again, calling out a ten dollar fee in lieu for residential development in the core of downtown and moderated fees in other parts of downtown. I think never before has an issue been more thoroughly studied and vetted in this community. People have spent hundreds of hours literally working on this issue to make sure we get it right. I think advocates will argue today housing advocates that the fee is too low. You've heard from rika saying it is too high but i employer you, let's

-- take the staff recommendations and don't it today and the dbt commission, we did vote 8-1 in support of the staff recommendations and I think it was mentioned some of the other recommendations were in that regards but as it relates to the ed the cation of the fee

-- the dedication of the fees, our recommendation pretty much follows closely aligned with the housing

-- the nhcd staff recommendation is. Thank you very much for your consideration.

[14:09:04]

Mayor Ieffingwell: John wright.

I am john wright. I am senior pastor at first united methodist church here in downtown austin, affiliated with austin interfaith. You know I have been before you before. You know how passionate our community of faith is in helping the chronically homeless. We host a breakfast every tuesday and thursday. We feed three to 400 people. Every night

-- I work late, and every night I have to step over homeless people who are sleeping literally in the doorways of my church. If we let them, we could have 50-100 people. There is no place for them to use the rest room. They are subject to drug predators. They are subject to people who beat up on them. Every day in the church, we have to counsel people who need money or food. They need money for bus tickets. They need money to get to the doctor. You have just

-- earlier in item 93, I think it is, you gave us a victory, because the people who live in oak creek, you know, if you had not done what you did, they could be

-- well be people who are on our doorsteps, and so I thank you for that. We all know how

-- how acute this problem is, and yet we live in one of the most prosperous cities in this nation. It is only right, it is only the right thing to do to ask every segment of the business community, the nonprofits to share their burden for this

-- in this responsibility so I want to encourage the council to accept the staff recommendations to pass item 104. We need incentives that will provide

-- that we need to give developers incentives for adequate housing for the chronically homeless and we need high enough bonus fees that will actually work as an incentive and not as an escape clause so please, please accept this item. Thank you.

[14:11:32]

Mayor Ieffingwell: Those are all of the speakers that we have signed up to speak.

Mayor.

Mayor Ieffingwell: Council member morrison.

Morrison: If I could maybe hear from staff on the progress that we may or may not

-- our investments in permanent supportive housing.

Yes, ma'am. So to date with all of the capital that we are have funded, we have funded our occupied and/or anticipated 279 units out of the goal of 350. I will

-- I will tell you, though, that the housing first priority model has, in fact, been difficult, and that is why this summer, with the funds that we have when we have after the tax credits are approved, hopefully whatever additional funds we have in our rental housing developer assistance program, we are going to put a note out specifically to address the housing first low barrier chronically homeless model because as folks have told you tonight, it has been very difficult to get landlords and everyone to want to be able to do that model. The way that model currently works with jo katherine when she testified before you, that has been successful because another nonprofit has been willing to sign the lease and

-- enter the lease agreement and they sublet to the individual. There just has not been a lot of folks who have been able and willing do that yet.

Morrison: I understand we don't even have a means of knowing

-- do we know

-- do we have the opportunity to know if we have met any of the housing first model anywhere?

Through our capital investment?

Morrison: Yes.

We have not.

Morrison: We have not. Okay. I know there is also the issue of housing the

-- looking for low barrier housing, which is not necessarily

-- is that the same population as

-- that needs low barrier housing as the housing first population? We are hearing a lot of terms and I am trying to understand and those could be folks who have records and things like that, right, criminal records

--

[14:13:42]

there is a lot of different barriers. Criminal background, obviously is the one that stands out the most often.

Those are where folks get screened out the easiest. Credit history is one

-- it is a huge barrier for folks when folks skip around, homeless populations in and of themselves don't have a lot of means, mon, don't have id, so there is a lot of

-- there are many different barriers. They can have a bad rental history with previous

-- when they have rented some place before, so low barrier is an opportunity

-- housing first and low barrier are very similar.

Morrison: Populations that need low barrier, often also the housing first population?

Yes.

Morrison: Is it possible for us to actually count

-- be able to record when we are investing into one or the other or both of those?

The challenges that we have had the last couple of years, one thing we have discovered is some of the information in tracking the populations is just information that wasn't being gathered or that we haven't gathered at the shelters and the various places where homeless folks enter the system so that has been a challenge for us, is that we haven't categorized or asked some of the questions that were being asked to report back on. So we

-- we will be working with the echo folks in order to, we, as the city invest in what is called hmis system, sort of a tracking system for data, how we can modify that system so we can better track all of the things that the report has asked us to track. That can be a place

-- we can certainly do it when we invest. I also suggest that we include an hmis to ensure we are tracking it as best as possible.

Morrison: So that looks like something we would be able to move toward in the future?

Yes, ma'am.

Morrison: Where we will be able to count this number of population that we are serving?

Yes, and when we put our notes out, we want to be very specific that it would address a housing first, low scenario for the chronically homeless, the folks we have been challenged with. With.

[14:15:48]

Morrison: So we will put a nofa out asking for a developer to build?

And or renovate.

And or renovate.

We haven't finalized what that will look like but we are looking at variety of options to see how it will be most effective.

Morrison: Last option, staff's recommendation is not to say that this money can only be used for this kind of housing but that it be

-- that the priority for the money be housing first low barrier permanent supportive housing. Can you talk about the difference just in terms of your operations and getting things built, the difference between having it be a priority versus having it be a limitation?

Our recommendation, because this is in the land development code felt very restrictive to be put in programmatic type of language and codified which is the only reason we

-- we've strongly recommended, encouraged and would prioritize the use of the funds for low barrier permanent supportive housing. The only reason we utilized the word prioritized versus dedicated, just

-- it is

-- once it is codified it is so restrictive. We just wanted to have the opportunity, should we not be able to invest the money into permanent supportive housing that we would have the ability to be able to do affordable housing, but we clearly understand the desire and the direction to want to prioritize.

Morrison: Andhis

-- we are talking about title 25, I presume, that has to go

-- I see jim in the background

-- to have to go to the planning commission and all of that to

-- if we were to

-- this language, for the

-- where the fee is going, it is a land development code process through the codes and ordinances and all of that.

Is that correct? As opposed to just three readings on a council agenda?

The language we are talking about is and would be part of the land development code so any

-- any subsequent adjustments would be code amendment process, not just ordinance.

[14:17:55]

Morrison: Right. And then a question for you possibly, jim, what we heard about the  
-- from some folks including the downtown commission, I believe and i know adapt in their letter, talking about  
where the funds are spent. Was that suggested at all, because it seems we have lost  
-- that I believe that we have something in here that the  
-- one of these plans during ben's lifetime, the focus on within downtown or any planning area within two miles  
of downtown? [One moment, please, for change in captioners]  
so it  
-- so it  
-- um, you know, as currently worded, it would not have to be spent in downtown.  
Uh-huh, right. Because what I'm hearing from some of the stakeholder comments is  
-- is very different than using it all for permanent supportive housing and looking forward to having some very  
low  
-- very low income housing downtown, which is different than permanent supportive housing. I believe that  
-- that we're for instance, adapt and the others that mention 30% and below.  
The current language provides a fair amount of flexibility to our departments charged with this mission in terms  
of both the nature of the expenditure and the location.  
[14:20:02]

But really with the priority on permanent supportive housing it would be  
-- it wouldn't be as broad as the other suggestions.

Right.

Priority I think statement is pretty clear.

Right. Okay. Thank you.

Mayor Leffingwell: I want to discuss this more, this same topic, but first i want to table this motion for the  
purpose of entertaining a motion to extend past 10:00.

So move.

Mayor Leffingwell: Mayor pro tem to moves. Councilmember riley seconds, all in favor say aye.

Aye.

Mayor Leffingwell: Opposed no. Passes on a vote of 6-0. And now I would like to

-- i would like to

-- to ask another question and

-- about the same subject. I'm not sure who I'm asking the question of. But I heard the speaker say that their  
preference would be to

-- to dedicate it for the first period until the next review. Then that could be re-evaluated, standard reevaluation  
period, whether that be three years or five years as yet undecided. I think the impetus for that, I kind of share  
that concern is that we have kind of prioritized in the past and has not really worked that really because there's  
so many other needs. If you are sitting there with that money in your pocket there and it's burning a hole real  
quick, you've got something that you really need to spend it on, they are just there to do that rather than keeping  
the money in your pocket until a suitable project is made available, whether you go out and look for it. I just think  
that it provides an additional impetus to make sure that money there's an extra effort to make sure that money is  
spent on permanent supportive housing, that's what I would support is a dedication as recommended by the daa  
and others echo, i believe. That it be

-- that it be

-- dedicated exclusively to load barrier, permanent supportive housing housing for the chronically homeless.

[14:22:23]

Cole: Mayor? I couldn't agree more with your sentiments. We have been down the road since 2009 of simply  
trying to

-- to prioritize this type of housing that we need for the chronically homeless. Especially low barrier housing and we simply have not been successful. If we are in the least bit confused about whether we have been successful, we simply only need to take a stroll downtown, next to the arch, and trip over the people that we have not been able to place. I have a motion that sets out the spirit of what the planning commission said but incorporates what the daa asked for. That language would read as follows. The fee would be paid into the affordable housing trust fund and for money generated by the fee will be for

-- for permanent supportive housing for low barrier approaches for the chronically homeless. I may that motion.  
Mayor Leffingwell: The motion is to approve the staff recommendation with that modification.

Cole: That's not the staff

-- that's modified staff motion, I guess.

Mayor Leffingwell: Yeah. The staff

-- because there's a lot of other elements to the entire recommendation. And no doubt we'll have other

-- other amendments, i would think. But is there a second to that motion, councilmember martinez?

Martinez: [Indiscernible]

Cole: Yes.

Mayor Leffingwell: Yeah, yes, it is. Basically a

-- a custom motion number 1 but mayor pro tem cole.

Cole: I'm simply adding the language that we are providing permanent supportive housing for low barrier approaches for the chronically homeless.

Mayor Leffingwell: Right. In other words the

-- the daa recommendation.

Cole: Exactly.

[14:24:23]

[Indiscernible]

Morrison: I'm sort of torn about this, but mayor, what you said really

-- really was interesting to me. What you said was

--

Mayor Leffingwell: Oh, ho.

Morrison: What you said was let's do this for three years and see if we are able to make a change and really make some progress here and that's something that I can support and then we can re-evaluate it in three years theoretically, we look at the calibration in three years. So what I would like to suggest as a friendly amendment is that we

-- we craft, adjust the motion that the mayor pro tem has made, so that it says that

-- but says we will re-evaluate that, where the funds are

-- that dedication of the funds to permanent supportive housing three years from now. And in doing that, I would ask for the city attorney and the staff's help in suggesting a way we know that the fees themselves are not in the land development code, they are in an ordinance in a table in order to make it less of a permanent thing, but a this is what we're doing now and we'll re-evaluate i. Actually craft it in such a way similar to the way the ordinance the fees are.

Cole: Mayor, I have a question for laura.

Mayor Leffingwell: All right. Mayor pro tem.

Cole: Item 2, is actually what

-- where we make the decision between three and five years. Are you wanting to simply make this a part of this motion? And address the three, five years separately? I wanted to make that distinction because I don't know if that's such a good idea. I don't

--

Morrison: I guess that I would like to make them separately. I would like the dedication of the funds to be for three years and re-evaluated in three years.

[14:26:27]

Cole: Okay. I would accept that as friendly.

Mayor Leffingwell: Councilmember martinez? Do you accept that as friendly? I would presume, I would always assume that's what would happen anyway, but if you want to codify it, that's good.

Morrison: Codify or at least structure with staff's help in such a way that it doesn't necessarily require a code change but like the fees is

-- is specified in ordinance. But I do want this done on all three readings tonight so I'm willing to be flexible.

Mayor Leffingwell: Councilmember martinez?

Martinez: Let me clarify I'm certainly supportive of taking a look at the program after three years, but are we coupling in with that the recalibration of the fee in lieu at the same time.

Morrison: That may be a different discussion and if people are open to that, I'm happy

--

Martinez: To me it sounded like we were blending motion one and two on the motion sheet.

Mayor Leffingwell: Incidentally, I think it's very confusing on the motion sheet. To me it's very confusing, anyway, we're trying to cope with it as best we can. Basically we have to have a base motion and go through a series of amendments. That's what we're trying to do.

Morrison: Maybe I can say that we will re-evaluate it at the same time and in the same process that we re-evaluate the

-- when we do the recalculation.

Martinez: And then allow a motion for recalibration

-- after this one passes or fails.

Morrison: Yeah.

Martinez: Fair enough, I accept that as friendly.

Morrison: Tie them together generically.

Mayor Leffingwell: That amendment would be to

-- to reallocate and recalibrate every

-- every three years?

Morrison: This is just to reallocate when we recalibrate.

Mayor Leffingwell: Reallocate when we recalibrate. Okay. That's accepted by the maker and the second.

[14:28:30]

Morrison: Hopefully, let me ask staff. I see them jumping up, is it possible to get that allocation of the funds in ordinance rather than in code?

Yes. I think what we would do, I'm looking at actually section f of the proposed code language. Where

-- it says currently it's worded the city manager shall evaluate and if necessary adjust the development bonus fee and the onsite affordable housing housing every

-- this is worded three, what i think that we could do is change that sentence to say city manager shall evaluate and if necessary adjust the development bonus fee, the onsite affordable housing bonus area and the allocation of money generated by the fee every, you know, x years. And then but it would still be done, the actual adjustment would be made by ordinance. We can still make that necessary adjustment by ordinance, but your intention to

-- to include that as part of that calibration process would be built into the code.

Morrison: Great, then in this ordinance in part 3, that's where you would say and the allocation now, this

-- this time around is for [multiple voices]

we would come to you with an ordinance down the road and it would potentially adjust any one of three things, the bonus area for on site affordable housing, the fee and the allocation of funds.

Morrison: That's great.

Cole: Okay, that keeps us on all three readings?

Mayor Leffingwell: All right. So just to make sure that we have it straight. What you said is basically motion number 2?

Morrison: It does not address the number five versus three. All it does it say that we will, when we recalibrate, we will reallocate.

Mayor Leffingwell: Okay. We can do it that way, of course, but we can do it any way that you want to, but it seems to me like it would be better to add it in when you talk about

-- about the subject of recalibration and that section f 1.

[14:30:44]

I understand it's sort of in between.

Mayor Leffingwell: What we have right now on the table is a motion by the mayor pro tem with the modification by councilmember morrison. So all in favor of that say aye.

Aye.

Morrison: Do we have other

--

Mayor Leffingwell: Yeah.

This is just motion 1. We still have others.

Mayor Leffingwell: That's why it's confusing to me, I would rather go through all of the motions before. All in favor say aye.

Aye.

Opposed say no. Passes 6-0 with councilmember spelman off the dais.

Martinez: Mayor I have a motion. Now motion two I would make a motion that we recalibrate and readjust and everything that we did in motion one every three years.

Mayor Leffingwell: Motion by councilmember martinez, seconded by councilmember morrison. Is there any discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. That passes on a vote of 6-0 with councilmember spelman off the dais. We have

-- we have two more potential

-- we don't have to, we can stop there.

Cole: I will make a motion that we approve the staff recommendation on motion 3 and give further direction that

-- let me back up. I think that it's a great idea that we want to combine consideration of housing costs to include utilities and transportation costs. But it's my understanding that we simply have not done all of the work for the methodology to be consistent for us to figure that out. So I would propose that we simply use the staff recommendation but give direction to work to develop a city-wide consistent methodology for determining housing and transportation affordability combined.

[14:32:46]

Mayor Leffingwell: So mayor pro tem moves to essentially motion number 3 staff recommendation for that amendment that does not include utilities and transportation costs. Is there a second for that.

Martinez: Second.

Mayor Leffingwell: Seconded by councilmember martinez. All in favor say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 6-0 with spelman off the dais.

Cole: Mayor, I have one last motion that would be to remove the area indicating the

-- that the downtown section of the waterfront overlay area is ineligible for the density bonus program. Basically what this motion would do would be to apply the density bonus program to the waterfront overlay area in the downtown section of the waterfront overlay. And I would add to that, further direction to staff, to consult with the waterfront overlay board in developing the full density bonus program that is due at the end of this year.

Mayor Leffingwell: Motion by the mayor pro tem. Is there a second? Seconded by councilmember morrison.  
Councilmember tovo?

Tovo: I think that i need some explanation, additional clarification. Would you at least read it again and [multiple voices]

Cole: Basically, currently, we will not have an application of any type of density bonus to the waterfront overlay area. If you look at the map, at the area that borders the lake, that district is not covered and we would apply the density bonus to that area. So basically the motion is to modify the area indicating that the downtown section of the waterfront overlay area is ineligible for the density bonus program. Jim, I might need some help from you to help clarify this.

[14:34:54]

I will give you just a little bit of history to explain sort of the origins of what you have in front of you, which councilmember, mayor pro tem cole was describing. At about the same time, we were working on this density bonus program is when the council created, was revisiting the waterfront overlay ordinance, taking a second look at it or revisited look at it and actually reconstituted the waterfront planning advisory board. At that time, council directed that one of the missions of the waterfront planning advisory board should be to

-- to forward to city council for

-- for consideration recommendations on density bonus programs within the waterfront overlay. In deference to that process, the downtown plan included this area that was shown as not part of this program. Under the theory that decisions there would emanate from the waterfront planning advisory board. That's why the downtown plan did not show this area as an ineligible area. It was in deference to that process. Of course now we're here two or three years later, and the waterfront planning board to this date has not forwarded any recommendations in that regard. So I think

-- so that's why that was there and council, mayor pro tem's potential motion here would remove that as an area that is ineligible and so the downtown plan, this program that you have in front of you here today would in fact apply within that area.

We actually, if it's helpful, we got word that this motion may be made tonight. That map in essence would replace what you have here to accomplish what the mayor pro tem has brought up for your consideration. In other words, we removed that area as ineligible and shown it as

-- as eligible and essentially extended the different eligible areas and far and height maximums down into that area. So erica has that which i think would accomplish what the mayor pro tem was forwarding for your consideration.

[14:37:21]

So the impact of the motion would be to take the area that is currently ineligible and make it eligible.

That is correct.

Tovo: What would that do to

-- it's my understanding that there's a different density bonus provision for the rainey street area a requirement that the units be on site, there is no fee in lieu option. How would this, could you just explain what the provision is for rainey.

The motion that the mayor pro tem has made would not affect the rainey street program. In fact, I think you are not posted to take any action with regard to the rainey, the existing rainey density program which is built into the land development code. So unless you direct us

-- unless you were to direct us to take steps to repeal the rainey density bonus program, we would have two programs in place for the rainey street area. The one that's already on the books that we've referenced and this one. I don't think that you would be able to tonight repeal the rainey program.

Tovo: I have no interest in doing so. I think we are far better [multiple voices]

I think that you would in essence, your action tonight would present any property there with I suppose the option of either approach. You would have this program in place and the rainey program in place.

Tovo: I think that would run counter to the goals of the rainey program which is to require on site affordable housing. So I want to be really clear that mayor pro tem's amendment does nothing to alter the rainey street density bonus program that exists and does not provide people an option.

The city attorney may [multiple voices]

Tovo: They would have exactly the option that they have today, if they trigger the density bonus program over 40 feet they are required to do on site affordable housing.

[14:39:28]

Good evening, david [indiscernible] with the law department. I'm aware of the rainey street regulations councilmember that you are referring to. I think the concern that i have at this point is the potential for a conflict that might exist between the two provisions, the existing rainey provisions and the ones that you are concerned about or considering tonight. Absent a conflict, I think that essentially if you were to pass this ordinance tonight, that the two sets of provisions would essentially co-exist. But I would have to look more closely at the existing rainy provisions to see if there is some type of conflict that would exist. But again I think that they would exist side by side with one another.

Tovo: You're not certain that there wouldn't be

-- I think that I heard you suggest that they could be in conflict.

That's the one thing that I could be concerned about without taking a really close look and comparing them side by side with each other. [Multiple voices]

maybe one way to address that would be to have some specific language in this particular proposed amendment to be vy clear that this provision did not supercede those current provisions. But I think that david is correct. They would both exist and then we would have to look at the specifics to determine if they conflicted and then use some other county statutory construction rules to try to determine which ones may be supercede or would apply unless you were more specific with the

-- with the amendment that's being proposed.

Mayor Leffingwell: Councilmember morrison.

Morrison: I wonder if i could have staff who understands the rainey street requirements, since i just

-- I heard a rumor that they apply they are triggered when you go over 40 feet and allow you to go up to 12 to one far and require on site for that. But they don't allow you to go greater than 12 to one. My reading is the same as yours, it's literally a habit here in front of me, for residential or mixed use building the maximum height is 40 feet. This limitation does not apply if it leaves 5% of the dwelling units on site that are available to house persons whose household income is less than 80%. In other words, if you provide 5% at 80%, then you are allowed to go past the 40-foot height limit. It says the permitted floor to area ratio is 12 to one, I also agree with your statement that it would provide the ability to go up to 12 to one, but not beyond 12 to one.

[14:42:30]

Morrison: So we don't have any authority to change rainey street tonight and we shouldn't. So if somebody wanted to go to a 15 to 1 far and we said that the rainey street requirements supercede it but the downtown density bonus was still applicable, what would that mean? Would that mean that you have to do 5% up to 12 to one and then you would kick in from the 12 to one to the 15 to one to the downtown density bonus?

I don't think that I know the answer to that.

Morrison: Okay. I guess another option would be for us to amend the motion the mayor pro tem made that said it just doesn't apply where the rainey street program applies. That would be an option, too, right.

Cole: I would accept that as a friendly amendment. I did not intend to alter the provisions relating to rainey street.

Mayor Leffingwell: Friendly amendment to the mayor pro tem's amendment. Is that accepted

-- who was the second.

Morrison: I seconded. I think that I will accept it.

Mayor Leffingwe Okay. So we're adding that, we're going to vote on adding take to the main motion.  
Councilmember tovo?

Tovo: Mayor, I see one of our downtown commissioners spoke earlier. I wonder if we might invite her back to see whether this was a consideration at downtown commission. This issue with regard to the waterfront and rainey. [Indiscernible]

we voted two weeks ago, if we considered the rainey street

-- I don't believe that our motion that we took, we didn't address the waterfront. It was discussed but it wasn't part of the motion that we made. But I agree with the concerns raised that I mean the rainey street part of those negotiations many years ago were put in place to address the fact that we were losing lots and lots of affordable housing that for years and years low income predominantly household and there was a need for a special kind of density program in that area and also in recognition that we were going from single family zoning to very dense zoning and we have concerns about any personally I'm not speaking for the commission, but about any action that would be taken tonight to gut

-- to gut that program, especially without any kind of public conversation about that. So ... Thanks.

[14:45:13]

Tovo: Thanks and so it's

-- I mean, it does sound like there's a concern about how these two things will interact.

Yeah, I think some other fixes that need to be made to the rainey street, there's an issue about what is a.F.D.Ability term, maybe that could be a subject for future conversation pretty soon to get that fixed.

Tovo: Thank you.

Cole: You are recognized

--

Mayor Leffingwell: Councilmember morrison.

Morrison: But we are now just to be clear, we are now excluding the rainey stet waterfront.

Entirely, okay.

Morrison: From the area. I did want to make it, clear, too, we have on the table for the waterfront overlay advisory board to come up with the density program for the waterfront and it's my understanding with this motion that we're not precluding them from doing their job for it's judge u.S. That this will be a place holder the downtown density bonus program will be a place holder until they bring something forward.

Cole: They're supposed to consult with the waterfront overlay board in developing it before they bring it back, a final program for us, we of course can change what they do but they're going to make a recommendation.

Morrison: Okay. Good.

Mayor Leffingwell: I guess we are ready to make

--

Riley: I would like to get clarification on the recalibration. One issue that has come up is the fact that currently as proposed the density bonus payments would be required for residential development and not for commercial and hotel. I've heard concerns, questions raised about whether that really makes sense and how that will play out over time. So I just wanted to make sure that in connection with the recalibration that we expect to occur as in three years I take it, that we will be looking at that question, that won't be part of the issue, that will be on the table, we may decide at that point that in fact we need to be charging, have some fee applicable to commercial and hotel, we may need a fee for residential anymore. I want to make sure that would be part of the recalibration. Is that staff's understanding, would that be within the scope of the recalibration.

[14:47:34]

Mayor Leffingwell: You can just say yes.

Yes.

Thank you.

Morrison: Mayor, i can't quite just say yes. Actually we changed the construct of the downtown density bonus program as we were working through it so that actually commercial and hotel is set at zero. So the recalibration is fully intended and I noticed that in figure 3 that's set at no fee, but that equals, it's really meant to be zero. Yes it could be a different number later.

Okay, all in favor of the item 105 motion as amended, say aye.

Aye.

Mayor Leffingwell: Opposed say no. Passes on a vote of 6-0, councilmember spelman off the dais. That completes our

--

[ applause ]

-- that completes our agenda. Without objection, we stand adjourned at 10:31.