

City Council Regular Meeting Transcript – 05/15/2014

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[04:02:18]

>> Mayor Leffingwell: Good morn, I am austin mayor lee leffingwell, and we will beginning with the invocation and we have a change, the invocation today will be by pastor trey kent from northwest fellowship church and pastor will davis from fellowship christian. Everyone, please rise.

>> So father, today we gather in this wonderful city, austin, texas, to thank you, to thank you for the amazing blessings that you have brought to our city, prosperity and wonderful people and great leaders. Today we are praying that we as a city would turn our face toward you and that we would love you with all of our hearts, soul, mind and strength and I pray today by the city council and leaders that they be led by you and make decisions that will build your heart, lord, for the city. We pray for the homeless, the hurting, the broken. We pray for your church to be strong and to love this city and work for the welfare of this city. We thank you today for your great love for austin and I pray today lord for blessings and blessings upon our city. I pray this in jesus name. Amen.

>> Amen.

>> Mayor Leffingwell: Amen.

>> Mr. Mayor, mayor pro tem, members of the council, I have a few friends here. I am an austin mayor and a son of a 30 year elected official here in austin. I feel your pain and I want to thank you for what you do. A lot of pastors from the council here today to pray for rain. You will issue a proclamation for a day of fasting for a week and we have your back and want to help solve this problem for you. Let's pray. Lord god thank you for the chance to be here today and thanks for the chance to talk to you because we know you hear us when we pray. Lord, we come today concerned because we are in the r in the midst at you well for a serious drought here in austin. We are grateful for the rain but we need a lot more. We are fearful for the livelihood of the ranchers in austin and the farmers and for the livelihood of those in texas and we will pray about, father, we are more concerned, that this drought may, in fact, be from you, that you may be causing it or allowing it, lord. Your world tells us when people have blessed or given favor to get distracted or get your attention, sometimes you call for the rains to stop, that people do what we are doing now, stand before you and humble before you and ask you father to return the rains to the land. Father, we are doing this. Father, if there is any sin in this city, if there are any shortcomings and decisions have been made that do not honor you, if there are things that you want done that are not being done. We, lord, as pastors ask that you hold that sin against us and not against these elected official, lord god. Certainly if anything is amiss in austin, it begins with those who claim to

be spiritual leaders. Perhaps we have not prayed sufficiently to those who lead and submitted enough to them well or loved them well or served them as we call us to. So, lord, we confess if there is guilt in austin, let us be found to leaders who are spirit alley vacation leaders in austin. We confess and because we are praying and acknowledging our guilt before you, we ask you hear us, heal us and forgive us and send your rib, and because of the bravery of this council to honestly issuing a proclamation asking for rain, that can be a risky venture, we ask you for their prayers by the proclamation today and for the rain that they send. Two specific requests, first, will you fill lake travis to 681, the elevation when it is full. That's the level of a full lake god. We are asking you to fill lake travis to 681. The second request, lord, sometime in the near future, a climatologist or lcra official can stand before tv cameras and say this drought is over. This drought, for whatever reason it is here will be past history and will be gone for the protection and city leaders. We pray this with agreement, the purpose, the mission, and the glory and the name of your son. Amen. Thank you, council, we appreciate it.

[04:07:01]

>> Thank you.

>> Mayor Leffingwell: Please be seated. Before we begin the meeting today, I want to take a moment to invite everyone to participate in the citizens forum which is scheduled for saturday, may 31st. The meeting will start at 9:00 a.M. And will be here in the council chambers. It's an opportunity to hear from the community about whatever topics citizens might want to address. This is because we know a lot of folks can't make it down here during the week on thursday. They will have that opportunity on the weekend. All you have to do is sign up in advance to speak and you can check the city clerk's page on austintexas.Gov for details. Again, saturday, may 31st, at 9:00 a.M. So a fair rum is present. I call this meeting of the austin city council to order on thursday, may 15, 2014. At 10:08 a.M. We are meeting in the council chambers, austin city hall, 301 west second street, austin, texas. We begin with our changes and corrections to today's agenda. Item number 22 is withdrawn. Item number 32, add as second cosponsor, council member chris riley. Time certain items today are 10:30. We will have a briefing on the republic square master plan. At 1 noon, citizens communications, and 2:00 p.M., Zoning matters, at 4:00, our public hearings, at 5:30, live music and proclamations and the musician for today is kimberly dunn. The consent agenda for today is items 1-33, plus items 63 and 64. I am going to read item number 21 into the record. It will remain on consent, so far at least. Those are appointments to our boards and commissions and waivers. Waiver to the downtown austin community court advisory committee. Keith heinz is council member morrison nominee. The following items are pulled off consent. Items 10 and 11 are pulled for executive session and also a time certain of 4:30 has been requested by council members riley and martinez. Items 24 and 25 set for a time certain of 3:00 p.M. By council members riley and martinez. Item 28 is pulled off consent by council members martinez and morrison and set for a time certain of 5:45 p.M. Item number 63 is pulled by council members tovo and morrison and set for a time certain of 6:30 p.M. Item number 7 is pulled off consent due to speakers. So that is our consent agenda for today. We have several speakers signed up to speak on the consent agenda. And we will go through those now. First is steven kraher. Steven kreher. Apparently not here. Gus pena.

[04:11:18]

>> Good morning, mayor, council members, mr. City manager and ms. City attorney. Gus pena, proud native east austin proud united states marine corps veteran. I am here to speak on item number 7.

Mayor and council members, I will keep it brief because this is a good item, authorize negotiations.

>> Mayor Leffingwell: Item number 7 is pulled for consent.

>> Pulled for consent, what item am I on?

>> Mayor Leffingwell: You signed on 9.

>> Sorry, that should be corrected. I will come back when it's appropriate.

>> Mayor Leffingwell: Okay.

>> Thank you.

>> Mayor Leffingwell: Juan novitas. Before you speak, juan, I want to clarify item 63, council members tovo and morrison requested a time certain for 6:00 p.M. I just want to make sure

-- I thought I said 6:00 p.M. But some people thought I said 6:30ch. So it's 6:00 p.M. Go ahead.

>> Thank you, thank you, mayor. Good morning, mayor, mayor pro tem, and council members. I did have a chance to come to your work session on tuesday

-- I didn't, and I wanted to make shbut I couldn't and I am here today and just to address a few brief points that were brought out as far as the board members go. Obviously you heard the community is very much against merging the mac board with the hispanic black coalition and I distributed a board action that we did last week to you yesterday so you should have that as well. This is a 40 year project, and the community likes the closeness of city council to the mac. It's that simple, and being able to participate in city government. That's the

-- that's the privilege that they enjoy now. We have been in existence for 5 to

-- feels like going on 6 years and the commission is new and naturally there is apprehension there, but it's just not a wise thing that all of the community has told us. And as far as the silos and the boards not talking to each other, that was brought out several times, and I want to say that the hispanic quad like commission has been in existence

-- actually it has been meeting for two months and so we haven't had a chance to have a silo, so give us a chance to do something like that before we are

-- are accused of being a silo, but we want to work together. We

-- we on the board realize more than anybody that it's very important to participate and interact with this planning quality like commission. We also distributed a board action to you yesterday and that was regarding sending up oral reports to the commission. I actually had the initiative to take a meeting with candy parm to see how we can accomplish this by perhaps bylaws, and we just decided to wait and the most we could really commit with

-- commit to, besides something that's on a regular basis, which we are not opposed to, is to try and do something on a voluntary basis, because we would like flexibility to go there more often than perhaps once a quarter, and so that's all that we could really recommend at this time, is to try and meet there and just be there at their meetings on an as needed basis, because we realize that we do need to work on common issues and we are looking forward to doing that. Also, the

-- I am on

-- I have asked to be on the agenda for this coming meeting of the commission. It's next week, and it didn't take an ordinance for us to do that. There was also something made about hispanic quality of life

commission not being able to have a place to meet. This was not a result of boards not talking. This is a result of staf .

[04:15:41]

[Buzzer alarming] I found out by accident

-- thank you.

>> Mayor Leffingwell: Thank you. Ed heimlich. Ed heimlich.

>> Thank you, mayor, council. I am a taxi driver and I own a yellow cab and on these three items, 24, 25, 26 are of concern to me.

>> Mayor Leffingwell: 24 and 25 have been pulled from consent.

>> Okay.

>> Mayor Leffingwell: You are signed up on 26, also.

>> Okay. So 24, 25, 26. Yes. And 26, as you say, is

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>> Mayor Leffingwell: S the still on consent.

>> Okay. I am new to this, so sorry.

>> Mayor Leffingwell: That's all right. Go ahead.

>> Okay. So I would like to be one of the taxi drivers that's

-- that participates in the

-- the stakeholders working group, if I may, and

-- but these tnss are of big concern to

-- tncs are of big concern to us. Thank you.

>> Mayor Leffingwell: Thank you. Joseph heley.

>> Tovo: Mayor.

>> Mayor Leffingwell: Council member tovo.

>> Tovo: Could you clarify whether 25 has also been set for a time certain of 3:00 p.M.?

>> Mayor Leffingwell: That's correct.

>> Tovo: Okay, so items 24 and 25 have been pulled from consent and set for 3:00 p.M.?

>> Mayor Leffingwell: That's correct.

>> Tovo: Thank you.

>> Mayor Leffingwell: Is joseph heley here? Apparently not here. I would entertain a motion on the consent agenda.

>> Move approval.

>> Mayor Leffingwell: Council member spelman moves approval. Mayor pro tem cole seconds. All those in favor, say aye. Aye. Opposed say no, passes on a vote of 7-0. Now go to item number 7. Which is pul speakers. There are 10 speakers signed up. The first speaker is

-- do you have a specific order you want to go in?

[04:18:06]

>> Yes, mayor, we do, good morning.

>> Mayor Leffingwell: You are james norte, go ahead.

>> Good morning, mayor, council members, my name is james norte and I have the pleasure of serving as vice chair for the african-american cultural district and I rise to speak in support of item 7 and we have revland, board members, and emily little, as well as staff and various community supporters, the african-american cultural her stage district provides to support the rich heritage to our city so as the african-americans diminish, our legacy does not and we are able to preserve future generations, young professionals like myself. The district is in its infancy now and all of you have been supportive in the past and we want to thank you for your support but we ask for your continued such for these extended funds. Even now, just after about a year of our work, we have contributed with tours and programming that have benefited the community, but it's important that we be given the opportunity to allow our programming to continue to thrive. So that others like myself can connect and build on the heritage already in exist dense, to preserve the opportunity for future generations. Thank you, council.

>> Mayor Leffingwell: Thank you, james. The next speaker.

>> Good morning. My name is eric tang, I am assistant professor at u.T. In the african-american studies program, as well as a researcher with the institute for urban policy and research analysis, and I am here to support the african-american cultural heritage district. We just conducted some research at u.T. That I think emphasizes the importance of this district. Austin is the only major growth city in the united states losing its african-american population, believe it or note, so some terms to clarify. Major growth city is any city over 500,000 that has a double digit or over 10% growth rate and if you take the top ten city that is fall into that category, all of them demonstrate positive african-american growth save

[04:20:37]

for one city: Austin. So it's not a good situation by the numbers, but politically speaking, there is a lot that the city can do. And I think the african-american cultural heritage district is one such initiative that could send a message that despite us being an outlier when it comes to african-american population changes, this city is still committed to its african-american community, its african-american cultural and historical assets. You know, one will look at the numbers and say, you know, this is a problem, but I think, from what I understand the city is committed to, to addressing the problem, and so I think a vote in favor of continuing the funding for the heritage district would send that message loud and clear. Thank you.

>> Mayor Leffingwell: I am always hesitant to correct a professor, but

-- [laughter]

>> Mayor Leffingwell: Especially around here.

>> Absolutely.

>> Mayor Leffingwell: My correction is, it's not that the african-american population is declining. It is declining but only in terms of percentage of the total population.

>> That's not true.

>> Mayor Leffingwell: The rest of the population is just growing much faster.

>> Actually, no, the total number of african-americans in austin has declined significantly between 2000 and 2010, and if you look at

-- I think you might be looking at the msa data which might show some net growth.

>> Mayor Leffingwell: Right.

>> But for austin as a city, again, and I need to emphasize this, this is important, is the only city in the nation that has seen double digit growth in the general population coterminis with african-american population decline. Every other city in the country sees

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>> Mayor Leffingwell: Thank you for the clarification.

>> And population growth and I have reports for your staff. I will leave them with your staff.

[04:22:38]

>> Mayor Leffingwell: Okay.

>> Thank you.

>> Mayor Leffingwell: The next speaker.

>> Good morning, mayor and city council and also city manager. I am nelson lender, president of the austi ncaacp and I am glad to be here and I want to also address mr. Smith and first a little history, we came to this body in 2004, where there was assessment of black life in austin, we want you to know you failed in almost every category. As a result then the city manager terrell said let's do a score card to address the various issues to see what is going on. It was reduced in 2005 and talk about disparities in education, in economics, healthcare, social infrastructure and many more, but she actually sanctioned a study to see if these things were really true and they were, and as a result then city council under the direction of wynn voted 7-0, not only to establish this process but to fund it. As I fast-forward it
-- I will tell you why I am here today

-- back in 2013, as a commissioner which is african-american resource through the commission, we asked the commission be funded by the cultural district. That district was sought as an idea in 2004. It was just an idea. We were told in 2005 one of the biggest problems here was that because there was no social infrastructure, black folks were leaving. This is 2005. This is 2014. As a result, we formed not only a district but also a facility to address these issues. Now, as a member of naacp and also as that commission, I can tell you for the past ten years, I have been very frustrated because in reality, we have a process in motion, but, yet, there is no funding. Our main concern is today, despite these disparities in the city, and by the way, the previous speaker is right, this city is declining in black population, only in the category to do so. I will tell you why.

[04:24:44]

[Buzzer alarming] why we are not funding districts here to to an african-american culture to retain african-americans. If you don't have social infrastructure, you don't retain black people. They are going to houston, dallas, atlanta and everywhere else. We knew that in 2004. What is the problem? The problem seems to be commitment. And in 2013 we actually recommended a initiative to say, look, let's found this district that is told to do, which is to create events and mic sure this city has a viable social infrastructure, and, again as a chair for three terms on the commission, I am very disappointed. It seems like every time there is a black initiative in this city, somehow folks at the last moment get hiccups or a collective loss of memory. I am saying in 2014, given the fact this is a vibrant city, one of the most cited

in the world, why is it you can't find black initiatives to address disparities that have simply astounding, outstanding and very disturbing. I am here to say, please take your job seriously. Honor the commitment of public portrayal. [Buzzer alarming] the commitment of will wynn and also our request. If you don't do this, our disparities will continue.

>> Thank you.

>> I ask you to please take this issue seriously and fund this district like everybody else so we can make progress in this city. Thank you very, very much.

>> Mayor Leffingwell: The next speaker.

>> Good morning mayor, council and assistant city manager, I am emily little, an architect and also a member of the board of the african-american cultural heritage district. After living in this district for the past 30 years, I can attest to the fact that the soul of the african-american community is hanging on by a thread in this geographic district. And in the past year that I have sat on this board, I have been amazed at the diligence and seriousness with which this organization has gone about establishing bylaws, establishing the ground rules for the path we see ahead of us, and the great celebration we had last weekend. We received our 501c3. So we are ready for business, and I beg of you to approve this, maintain your support of this important organization and let us do the job that you all set out for us. Thank you so much.

[04:27:08]

>> Mayor Leffingwell: Thank you. Other speakers? Other speakers who are signed up do not wish to speak, I assume? Okay.

>> Cole: Mayor.

>> Mayor Leffingwell: So mayor pro tem cole.

>> Cole: I have a question of ms. Burt. Ms. Burt, we've heard extensive testimony this morning about how important the district is to the african-american community and how important it is to maintaining the population of african-americans in this city, and I fully agree with that testimony. What I would like for you to testify about, and ms. Little touched on it a little bit, is the importance of the district to our entire community. I went to an event last weekend that you were a part of in connection with downs field, and that event was not predominantly attended by african-americans.

>> It was not, and the name of the district is austin's african-american cultural heritage district and it is very purposeful. Because we are not trying to ghettoize a culture. What we are trying to say is that the heritage and legacy of the african-american community in austin goes back to the founding of austin itself. And that this community has not only contributed to the well-being of central east austin or austin, but has had an impact on our nation. And one of the places that it has had an impact is major league baseball. Our event last week was in celebration of historic downs field. Around now we call it historic downs field, because with part of the money that we were allocated in 2013, we were able to get downs field recognized by texas historical commission as a historic site and I can go on about baseball and park and all of that

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[04:29:30]

>> Cole: I think you made that point because I have another question to ask you on a similar line of questioning. I sponsor a cycling event in connection with the african-american festival, and you participate in that and we have cyclists from all over the city who predominantly are not african-american but we go on a tour of the district, and can you talk a little bit about that process and what we are seeing in the district?

>> I can. And I also can say that you hold up pretty well, going up that hill. [Laughter] but, so, yes, so for the last three years, we

-- we have been conducting bus tours and cycling tours of historic east austin and we are able to do that in partnership with austin convention and visitors center because they have given us a staff person to actually research and serve as docent for these tours. Council member riley, who is an avid cyclist has taken part in this event for two years but we also expanded that and we now offer the cycling tour upon request by the general public. And the tour

-- the cycling tour is about an hour and a half. The bus tours are similar. We have partnered with the students at keeling middle school and they have a cycle club and have taken the tour on the cycle tour as part of their curriculum and they have taken the tour and then they do research and document each site of the tour, so that

-- a cycling tour that was specific to the heritage festival at houston tillotson is now a regular part of the curriculum at keeling middle school.

>> Okay. Thank you, lisa.

>> [Indiscernible - no mic].

[04:31:31]

>> Mayor Leffingwell: I just asked if anyone else who signed up wanted to speak. So if you want to speak, you can come forward.

>> [Indiscernible - no mic].

>> Mayor Leffingwell: Just a misunderstanding. Go ahead.

>> Good morning, mayor, council members, mr. City manager, madame city attorney, I mean no disrespect, but because of my tour in the war zone I have a hearing problem, but I didn't hear you but I did definitely sign for this item.

>> Mayor Leffingwell: And

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>> don't interrupt me mayor. Thank you, anyway. I am here to support the african-american item on the agenda. I am a former eeo discrip they investigator in collaborative justice and I find there is disparity here in the good city of austin. I ran for city council twice and council member spelman remembers me. I won't say too much because he gets embarrassed but

-- and he did a darn good job. I did a bad job. Anyway, I want to support item number 7. I also met with then mayor will wynn who I helped in this campaign and I also spoke to then city manager portrel and supported this initiative. I have been active supporter of african-american issues and I

-- god forgive me, my my family forgive me. I sometimes get angry, not ptsd, there is disparity still in our city. It shouldn't be like that. And this is \$237,000. Come on now? Y'all have been giving more to

developers and other entities, 237,000

-- I was going to say measly, I better not, forgive me, thousand dollars. That is a drop in the bucket. It should be more than that. We as a community of the city of austin pride ourselves in being residents of the city of austin being proactive and I apologize mayor, being respectful, but, you know, we shouldn't have to be here. This should be on the consent agenda. Why do we always have to fight for something in the hispanic community and the african-american community? I know, mayor, you have shaking your head, but it is okay.

[04:33:53]

>> Mayor Leffingwell: It was on the concept agenda. It was pulled because of the speakers.

>> I am not dumb, I am educated. Mayor you do a good job of interrupts.

>> Mayor Leffingwell: It is the privilege of the chair.

>> It is the privilege of me not to interrupt me, please, as a speaker, and as a taxpayer. I would like to say this, that we are in support of that. And I know it's on the consent agenda but why in the heck, heck, why do we always have to fight for our drop in the bucket? I just don't understand it. Anyway, it is in the consent agenda. I support this funding. I love you, mayor, you are cool. You have a navy guy. You are cool. I am a marine corps and thank you very much, and mr. Marc ott, city manager, keep doing the good work. You are a good city manager. We respect you and will fight to retain you here. You are a good one. Thank you very much.

>> Mayor Leffingwell: Is there anyone else who signed up that wishes to speak on this item?

>> Cole: Mayor.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: I think that we have had considerable discussions about this, and I appreciate the comments of my colleagues on tuesday about how we are handling budget items, and I think that we can continue to address that, but this is an item that is of importance, not only to the african-american community but our entire community, and it is addressing something that we have shown a commitment to address in the past, maybe not adequately but it takes us a step in the right direction, which is the declining population of african-americans in our city, so I will move approval.

>> Mayor Leffingwell: Motion by mayor pro tem to approve.

>> Tovo: Second.

>> Mayor Leffingwell: Second by council member tovo. I will just ask you mayor pro tem

-- and you stated this, I believe, at the work session. You believe this falls within the guidelines of our adopted municipal policy?

>> Cole: I believe it does, mayor. I believe it does, because we have had testimony to the fact that it is an emergency item and very critical to their operations, and we have an exception for that.

[04:35:57]

>> Mayor Leffingwell: Other comments? Council member tovo.

>> Tovo: I will just say as a second, I agree with everything the maker of the motion said.

>> Mayor Leffingwell: All those in favor, say aye.

>> Opposed say no? Passes on a vote of 7-0. [Applause]

>> Mayor Leffingwell: So now we will go to our briefing on republic park.

>> Good morning, mayor and council, city manager. I r my name is marty stump and I am with the parks and recreation department, a division manager over the capitol improvement program. I am here today with director hensley and partners of downtown austin alliance and austin parks foundation here to provide a briefing on the master plan for republic square, project recently completed. We will be back before the council in early june on action item to adopt formally the master plan and then to authorize the negotiation and execution of a partnering agreement with the austin parks foundation to move forward with design construction around ultimately design and operations and management of republic square. Some brief history here, the master plan recently completed in 2013 as a culmination of many years of prior planning and policy efforts, including the downtown parks and open space plan, the good work of the urban park workgroup and pard long range plan and most importantly, the imagine austin plan, which envisions and encourages departments to really revitalize and encourage walkable vibrant downtown including the parks and open space downtown, which includes obviously the downtown squares. If you will look about the city today, you see the outcome of partnering opportunities and arrangements, improvement on park land today. Look across the shores at auditorium shores, the work underway there is being conducted today in the partnering agreement with the austin parks foundation. Likewise the boardwalk trail with the trail foundation, renovation of the nor wood house through the nor wood park foundation. So we are really feeling and seeing the positive outcome of the work that can be done under partnership. Specifically to republic square

-- again, this has been a process underway for a number of years, 2007, a project for public spaces study that was done followed up by a vision plan in 2010 that was sponsored by the austin parks foundation with the downtown austin alliance also participating. That vision plan provided framework and the foundation upon which the revitalization of the austin oaks area and the deck that was constructed under those oaks project in excess of \$450,000 that was done in close collaboration with apf and daa. Federal courthouse project, when it came online, fees paid to the city related to that project enabled the master plan to be contracted by the city of austin with the urban design group, a fine group of landscape architects and designers here in town. We completed that master plan. Very robust public engagement process, public polling, key pad polling, public workshops and so forth that really brought us to closure on the master plan phase, which is a very

-- a very nice document and more than just a pretty picture. It is a very robust document with a lot of background information and that master plan, the full document as you will see online. The department is very pleased with the outcome of the master plan. We feel we have broad community support for the recommendations that we will speak to here in a moment. That master plan effort has been acknowledged and awarded awards of excellence by both the american planning association and the texas chapter of the american society of landscape architects, with a particular emphasis on the public engagement process. Then ultimately, in 2012, under the bond program at that time, some amount of funding was earmarked for the downtown squares, and that is part of the funding plan for republic square. So the master plan, the master plan process included discussion and evaluation of design alternatives, this is the preferred plan that came through that process, which really reflected the values conveyed to us by the stakeholders and the public, those values included a desire to maintain a green space, an open flexible lawn area within the heart of the park that was separated with a perimeter

plantings from some of the surrounding street scapes that was seen as flexible space that preserves all of the trees on site but does provide a more urban framework for enjoyment by the folks who live and work downtown. Likewise, the master plan does suggest improvements in the right-of-way, so the work in the great streets and the opportunity on the north, south, and east sides of the park to be improved in the future. On the left, the division as you are looking at it there, is the federal courthouse and the plaza that was constructed as a part of that project. So again in summary, the austin oaks and the deck -- the auction oaks and the work done in 2010 was the focal point of the plan going forward on the plaza of former san antonio street right-of-way that was done in front of the federal courthouse united states that civic building to the park. The open space, the central lawn here as we envision it is a space for movies in the park and daily activities and folks and kids and families and pets on leash and other users of the park. The promenade walk, the arch promenade, it is a circular walk within the park, it does provide the circulation benefits of the internal park but it also provides for places to sit and view into the heart of the park and it will be associated with some seat walls and some other amenities. The northerly end of the park is what we are calling the republic plaza or the republic market space, and so one of the users of the park today, as you well know, is the market there on saturday with sustainable foods, so this area on the northerly tier of the park is seen as a space that will be generally level, combination of paved and granite gravel areas for flexible use, including market setup, so we envision the market to remain active in the san antonio plaza there, the federal courthouse, as well as the northerly tier of the park. This space also accommodates a couple of things, one is, there has been discussion of children's play and family friendly activities within the park. Through the master plan, it was decided to not have a playscape, a traditional children's play area within the park but rather provide space for movable play components, much as the playground in a box that has been sponsored by the austin parks foundation and used in republic square in the past. So in that plaza area, the area that's indicated with a k there would be a space that play equipment could be brought out and used during events and allows for spaces for kids to have creative play. Likewise, along fifth street, along the northerly edge of the park, the mexican-american heritage corridor has been discussed as a street scape improvement really here in republic square, moving east toward congress, a series of perhaps historical or art influenced installations. As you know today in the park, there are two mexican-american art pieces in the park, those are seen to remain in the park and then potentially become anchor attractions or art elements within that right-of-way. And then lastly, the master plan calls for two small buildings within the park. One that would be a kiosk scale restaurant food service. The second would be a support building that would provide public rest rooms and then storage space for maintenance and operations. Moving forward, the partnership between city of austin parks and recreation department and the austin parks foundation, with downtown austin alliance in a support role, really coming together, with entities here forming the historic squares leadership team and this would be a group that is beginning to meet now and representative of the partnering organizations with a primary role of leadership moving forward with park improvements advocacy for these improvements. Additional fundraising, as I will describe here in a minute, and then ultimately a new model for the operations and maintenance of our downtown squares. The role of the austin parks foundation is one of leadership moving forward, so the downtown squares are seen as an opportunity for apf to become the leader both in terms of the final design and construction activities, but then the ongoing maintenance and management of park and this has a number of benefits I can speak to in a moment. They will, moving forward, be the holder of the

design contract and the construction contract, ones we get under way in construction. They are a partner in the joint agreement that we will have with the city of austin that will be responsible for the long term operations and maintenance and the programming within the park. City of austin parks and recreation department will continue to function as the owner department, traditionally as seen for the downtown squares, though the state of texas is technically the owner of the land itself, but we will be involved in more of a contract monitoring standpoint and certainly an active role through the design and construction phase. A budget breakdown on where we are today. I will speak to two phases of construction as we see it. Phase one is essentially everything in the park, back of the sidewalk in, generally estimated now total project value of 2.4 million. That's the figure at the top table there, the table down below is a table showing the available funding, 2.5 million. That is a 1 million-dollar balance that remains in the capital budget today from the federal courthouse project. The bond funds, the contribution of \$250,000 from the austin parks foundation and \$450,000 of park land dedication fees that have been earmarked within the area that could apply to the park. Phase one, phase two. I mentioned phase one as the park proper, with backup sidewalk in 2.4 million. The work to be done in addition to that, the two small buildings that I referenced as well as the work in the public right-of-way add to an additional 1.4 million. The austin parks foundation has generally agreed to embark upon a fundraising campaign in order to bring that funding to the table, hopefully in time so that all of the construction can occur concurrently so that construction is not a phased project. Then lastly, the third column there, speaks to the operations and management budget -- estimated budget. I would like to say that there is an additional team of consultants, tim marshall through etm associates under contract through the downtown austin alliance, he is a consultant who is providing a study and a report on the financial viability of this partnering agreement and we will begin to then pin down what the annual budget will need to be for the ongoing operations, maintenance and management of republic square. Overall schedule, again, we will be back in early june for action, both for the council to endorse, adopt the master plan as well as formally execute the negotiation execution of a partnering agreement. We envision the construction of the park beginning approximately june of next year. We are being very mindful not not taking republic square down for construction until auditorium shores is fully back online realizing we have other parks including waterloo and other event that are special use parks that are off line today due to construction. So just in closing, you know, this relationship with apf and daa, it will bear the fruits of time saving sufficiencies moving forward. The procurement practices that will follow the third party ordinance resolution with the city in terms of smbr participation and so forth much as we put in motion at auditorium shores so it is certainly compliant with city processes but we can move forward as there are sufficiencies in the bidding process, daa and others are active downtown maintaining the public spaces, streets and so forth. Those forces will be brought to bear at republic square to help maintain that park as well. And then, lastly, we really see this management operations programming model as being one that, when successfully implemented, that republic square will be very likely an opportunity to apply to additional downtown squares in the future.

[04:50:06]

>> Cole: Thank you, marty. I really appreciate all of the work that has gone into this project and recognize that it was well overdue. I just have a couple of questions for you. I understand that a business

plan has been

-- being developed to cover the operation and maintenance cost of this project. Can you tell us a little bit about that?

>> Yes, that is the report I mentioned etm associates with tim marshall under contract to the downtown austin alliance jointly funded through the city of austin parks department but that businessman looks at national best practices and other models that are in place through other cities through various conservancies and so forth that demonstrate that a private public partnership can allow for a programming and a revenue capturing model that will allow revenues, for example, generated within republic square through the foot kiosk can be returned and reinvested in the park around one thing I failed to mention is the austin parks foundation has also agreed to begin to build an endowment through annual contributions into an endowment to fund, underwrite the annual maintenance and operations costs of the park as well, because we know that the per year cost, the figure I had on the screen there, of estimated 300,000

-- we are speaking of the hundreds of thousands of dollars decimal point. Whereas today the amount of money spent within the park by the city is more in the tens of thousands of dollars range so it is a decimal shift over, realizing that this park needs to be maintained and sustained at a much higher level.

>> Cole: Okay. Thank you. I am very interested in how this park is going to interact with the sidewalks and right-of-ways around it. Some of the best examples I have seen in other city treated them as all the one seamless public space. Can you speak to that?

>> Yes, very good question and one I answered yesterday in a briefing to the daa board but when well designed and we do expect that republic square will be well designed in its finished stage and constructed, there isn't a sense for where the sidewalk starts and stops and ends and when the park beginsments it feels as continuous open space, so that will feel within the open park, the fluidity of the fields and movement of the park, so the sidewalk space, space under the right-of-way program, under great streets space, there is expansion of it so it gets into the street so it becomes a more generous pedestrian realm but we want it to feel as if it's part of the park and for folks to feel comfortable in safe walking in the zone under the shade of the perimeters and so on. We need to be mindful not to have things in place that obstruct the movement of pedestrians and bicycles and so forth in the space. But it will feel very much a part of the park as the san antonio plaza there in front of the courthouse, it feels like it is part of the park land. I think that will be part of the positive outcome of the good design.

[04:53:09]

>> Cole: I appreciate you guys keeping that in mind and promoting good design. I have one last question about design. As the park is being designed, what efforts are being kept in place to make it drought resistant?

>> A couple of things there. You know, the turf grass in its resiliency, its ability to with stand the pressures of daily use and events. We know we need to prevent a very robust roof zone for the turf grass so there will be a significant amount of replacement with high quality soil in the park today. We know from prior work the soil there today is not a great growing medium. That park used to be a parking lot. So in the '70s, it was under under asphalt pavement and the soil will be for drought soil and then we want to have annual color and that kind of things but we want to be mindful of the sustainability and

then lastly, working closely with austin utility, we will bring reclaim water line to this park for the next several years as awu schedule allows to the landscape within the park will be watered with nondrinking water source. It will be reclaimed water.

>> Cole: Okay. Thank you, mayor.

>> Riley: Mayor.

>> Mayor Leffingwell: Council member riley.

>> Riley: Marty, I want to thank you for your briefing and all of the work on this as well as all of the work of everybody else in the parks department and I want to send special thanks to the downtown alliance and the downtown alliance, both of those have been real champions for parks for many years and it is great to see everybody coming together to support this latest effort for republic square. What is so exciting about this plan, to me, is not that

-- is that it addresses not just the physical infrastructure there at the park, which has been the subject of discussion for many past years, past plans, but really of the progress we are seeing towards a zone structure for managing the ongoing operations and maintenance of the park over time. That is something that we have really struggled with for all of our downtown parks so it's very exciting now to be within reach of the whole new model that could help us out in terms of the ongoing maintenance for public square and potentially other downtown squares as well. I know you addressed that in some detail in your presentation. I just wanted to follow up a little bit in regard to slide 13. You mentioned that we have a consultant who is working on all of the numbers on this and will be figuring out a budget. At this point is there any basis for knowing what sort of financial impact we could expect in terms of the city's ongoing commitment to ensure a continued support for the new management structure or the impact on other entities? And maybe that's a question better directed to sarah.

[04:56:03]

>> Marty might be able to answer it but susan hensley, director of

-- sarah hensley, director of parks and recreation but one thing we are doing with the partnerships, what little funding we do have, we will revert over to support this effort. Again, this is a true partnership and we are thrilled to have this kind of opportunity and hopefully it will carry over to a couple of other opportunities, but

-- and then we will continue to look for ways to be able to support this financially through maybe not actual money but certainly we are not going to walk away.

-- We will not walk away but continue to do what we need to do to make this viable and we talked about doing a certain level to do some things and they will pay the above level and at some points austin parks foundation will completely take over the maintenance and upkeep, but what money we do have and what ability we have to get funding to get help with the downtown squares, we will revert to that agreement. And at this point we don't know the exact amount, but as marty had mentioned, ours is in the tens of thousands, but as we continue to look at other opportunities and as things like this happen, it does free up our ability to do other things, so

-- but I do want to say this. We don't want to walk away and, oh, here you go. We still have a commitment to work with them, to make sure that this is a fluid opportunity and that we provide services at whatever level we need to provide.

>> Riley: Great. Do we expect there will actually be a new entity that is charged with maintaining the park, or will it

-- or will we simply be referring to it as the parks foundation?

>> I think they are looking at different models. As marty mentioned with etm and tim is the lead there, he has a plethora of experience working with conservancies and his past experience and I think what they are trying to do is find the model that works best for republic which may mean to contract for those who do a high level of maintenance. It could have had mean that we do something as part of that to come in and do some things but I think what we all recognize is these parks downtown need a higher visibility and presence with a maintenance focus, and that means more of a body there and more regularly, and more trash pickup and more consistent eyes on that park and those parks. To do that, we are not able to do that at this time and don't foresee that as something we can do ongoing, but we do see

-- we play a role in helping to do that. So I think we are trying to fine tune that model that will work best for the daa and the austin parks foundation.

[04:58:51]

>> Riley: And that's exactly what we need. Obviously it's great that we are going to be getting public rest rooms, for instance. I was glad to hear that as part of the plan but it will entail some expense and very careful attention to ongoing maintenance and so I know there are models from other cities, and I know all of the entities involved in this process have been looking at models in other cities. There are examples in other cities of governing structures that can actually be self-supporting entities, just based on the activity going on in the park, and so I hope that that will remain a long-term vision for this and other downtown parks. They will actually become sump destinations full of so much activity that there would actually be revenue streams that could support the needs for ongoing operations and maintenance. And this is exactly the step we need to set the whole community on a path towards that vision, and so I

-- I want to thank you, sarah, and everyone else who has been involved with this. By the way, I know there are representatives in both the daa and parks foundation here today.

>> They are right here.

>> Riley: So if anyone does want to come up and offer any input, I will certainly welcome that. But just know you are very much appreciated. This is a huge step forward for the community and I appreciate all of the work that's gone into it.

>> We are very lucky, we are very lucky to have wonderful partners in the daa and the aps.

>> Mayor Leffingwell: Council member martinez.

>> Martinez: You specifically mentioned the great streets and the kind of heritage trail or corridor that sylvia has been working on. I may have missed it but I wanted to confirm that we are going to keep the bus that are in the park and a long list close to the corridor because it is not listed in the alphabet here.

[05:00:59]

>> Council member, it is not listed as part of the written presentation, but, yes, that is the intent. The

bus will remain in the park. They may remain where they are located today but there may be a better location when the fifth street corridor is developed.

>> Martinez: When I look at the fourth street improvements, it looks like we are adding parking space or trying to maintain on street parking there?

>> We feel it's important that, along perhaps fifth street and/or fourth street, that some on street parking remain, particularly in terms of the viability of the kiosk restaurant loading in and loading out. Fourth street is a little bit of unknown right now, not knowing exactly what the street section will look like with future transportation transit improvements but it is generally seen as great streets opportunity. We will work around the existing trees that are there today to the extent parking remains there or whether that lane is occupied by sidewalk or future transportation lane. We don't know today.

>> Martinez: And so when we get to the

-- when we get to the point where we are ready to find a restaurant or a vendor, if you will, a concession, will that be an r.F.P. Process, or will that be something the foundation oversees?

>> It may be likely something that the parks foundation takes a lead on. The mobile kiosk we have in wooldridge square today that is through a model where apf have brought that vendor in through the selection procurement process. We as a staff looked through that process but it hasn't come out as formal city solicitation.

>> I think marty is correct. We will rely heavily with our friends at the downtown austin alliance and of course austin parks foundation to probably move forward with that and I would think they want to do that expeditiously.

>> Martinez: Great. I just wanted to thank the parks foundation and daa. Again, we are

-- every year we are looking to scrape two pennies together to improve areas of our community and it wouldn't be possible without these partnerships, so I appreciate staff's hard work and the partnerships that came forward. Thank you, mayor.

[05:03:08]

>> Thank you.

>> Mayor Leffingwell: Council member tovo.

>> Tovo: Thank you to all of the partners. I echo my colleagues' thanks. I think this is an exciting opportunity for our city and I am glad to see it moving forward. I have a few questions. I want to talk about your comments about the family friendly element. This did come up in our discussion with some of the partners, and I guess I want to reemphasize the point that a family friendly

-- a family friendly activities don't need to be a playscape. I know that's the one you offered but we need to think creatively in our city how every plaza, every piece of open space really can work toward attracting families and not necessarily through an immovable playscape which some research suggests isn't the only

-- certainly isn't the only way and may not be the best way to really encourage kids' activity and engagement and imagination, so I would really like to see some discussion in the master plan about how we are going to work towards encouraging family-friendly activity in this very important and critical park downtown. We have set as the council the goal of being the most family friendly city in the nation and of key importance is looking at ways to encourage more family friendly activities downtown and so we

have an opportunity here we can't miss. I really like the movable play equipment that's there on Saturdays during the farmers market. My children spend lots of time playing with it. But outside of Saturdays, it is not there, and so we are

-- I would encourage thoughts to interactive art features or natural elements that provide climbing opportunities. Colors. The historical cultural heritage opportunities that are noted in here could be signage that encourages scavenger hunts, quizzes. There are thousands of opportunities out there that other cities have done to create family-friendly opportunities and I really hope that we will see some of these filling out the plan. Director Hensley, you look like you want to jump in here.

[05:05:14]

>> Our friends reminded us, and I

-- they are absolutely right. One of the huge benefits of this partnership is their ability for programming purposes, which goes right to your point. They are going to be focusing on programming this park that will not only house events but will house family-friendly programs. Also, they are looking to put in vendors, a vendor or vendors, who are focused on family and bringing families to this park, so not only will the development and the landscaping of this park be family-friendly, but the key component is the programming part of it, that they can bring so much bigger to and color to, and then also being able to have vendor or vendors that focus on family-friendly, so I would venture to say, when we come back and you see this wonderful opportunity, it will touch on every one of the things that have been mentioned today and more, and this sets the tone for us for future partnerships, not only in the downtown area but across the city.

>> Tovo: Thank you for mentioning that. I meant to mention that in my comments as well, that in our discussion, there had been talk about programming. I think programming will be a very important element of attracting families there, and already I know the movies in the park is quite a success. But I really want to see it embedded into the

-- into the site itself.

>> Sure.

>> Tovo: That that is a consideration and that it's designed with an element toward being accessible to individuals, of course, across the lifespan but with particular thought about how we might make it a place that kids love to come to, even when there aren't programs and there isn't a movable playscape. That will be an exciting opportunity. When you say vendors, did you mean the carousel?

>> We are still working on that.

>> Tovo: I know there isn't a carousel but I look forward to seeing what other options there are.

>> We are working on options for the site.

>> Tovo: Thank you. Thanks very much. Again, I am really excited about this opportunity. I did want to ask one quick question. It is my understanding during the construction, the farmers market will still be able to be in the location, not the park itself but in front of the plaza in front of the courthouse. Is that correct?

[05:07:25]

>> Yes, we are looking ways to minimize impact of the market as well as daily users of the plaza.

>> Tovo: Thank you.

>> Mayor Leffingwell: Council member spelman.

>> Spelman: Thank you, mayor. I am looking at page 9 of your report and finding these teeny little kiosk of a restaurant, the support building is at

-- our code word for the bathroom?

>> Yes.

>> Spelman: Good. I am glad it is on the plan and not something shadowy, even though we aren't calling it a bathroom. Why aren't we calling it that or but calling it a public support room?

>> It will have a public rest room but also have maintenance and storage and utility risers and it has a facility function, it will be architecturally good for the design.

>> Spelman: I understand, the better design it is, the more permanent it ask and the fact it is in somebody's restaurant, the some somebody's best interest to make sure it is well treated at all times of the day. I am a little concerned about the size of the restaurant kiosk. I understand we are dipping our toe in the water here of having private vendors in a public park and this is probably going to be controversial in some ways but I am looking

-- I have the screen in front of me of the picture of mother of all private and public partners here and that's the bryant park in new york city and just compared to bryant park, I in particular want to mention that bryant park has a carousel in it, although they don't call it carousel in english, they call it la carousel in french, I don't understand why. [Laughter] and they have a bunch of amenities like council member tovo is talking about, which is a feature of the park at this point. I bet it wasn't a feature when bryant park was first laid out or designed a few years ago. In particular I am really interested in knowing whether or not that restaurant kiosk, if it turns out to be wildly popular could increase in size and the volume of customers it could serve.

[05:09:34]

>> Yes, I appreciate the question there, council member. The size, the scale as drawn in the master plan is sort of a first wash space saver. Obviously the final design will be flushed out as we move forward. The int is that it's not likely to provide interior seating but an opportunity for people who sit outdoors in more of a cafe setting but I do understand that the design team design workshop, as the design team moving to forward, they do have architectural subconsultants on staff, including retail and food service consultants that will help us work through this process to help us decide what are the best footprint to accommodate the need today and potentially, if it does expand in the future, how it will be done.

>> Spelman: That's majority vending and bryant park and these parks like this aren't for eating on site. You don't have your own little tables and chairs. You get your food and walk somewhere else in the park. And I think that's exactly what we are talking about?

>> Yes.

>> Spelman: So you are looking at the possibility this may grow in the future and making appropriate arrangements so if it does grow and is wildly popular, it can still do that?

>> Yes.

>> Spelman: Ter risk. Thanks. Terrific. Thanks.

>> Mayor Leffingwell: Thank you very much. Council will now go into closed session to take up 8 items. We won't do them all this particular round, pursuant to 551.071 to the government code, the council will consult with legal council regarding following items, item 10, legal issues related to the austin fire department hiring practice settlement, item 11, legal issues related to legal service contract with reeves and brightwell. Items 35 and 36 are withdrawn. Item 37, legal issues related to the city of austin water supply and management of lcra basin, item 38, legal issues related to eddie rodriguez and others versus rick perry and others. Item 39 legal issues related to austin fire department hiring. Item 40, legal issues related to the waller creek tunnel project. Is there any objection to going into executive session? If not, we will go into executive session. We will be back out at 12:00 noon.

[05:12:02]

[Executive session brackets. [Executive session].

[06:05:48]

>> Mayor Leffingwell: We've out of closed session. In closed session we took up and discussed legal issues related to item 37. We'll now go to citizens communication. First is jean e crawford. Is jean here? Topic is sidewalk accessibility.

>> [Inaudible].

>> Mayor Leffingwell: Before you start, councilmember tovo asked me to announce that she will be away on city business during citizens communication. Go ahead.

>> I am speaking on the necessity of curb cuts on the sidewalks between county buildings ruiz and tax clerk office on airport, that's 55. This first slide shows you the general area that i-35 is there on your right. Airport is on the left. This is actually a closeup of the two buildings. The yellow points are the sidewalks that do not have curb cuts. This is a schematic of the parking lots. To be able to go up from the bus stop to the ruiz building you actually have to physically go out into airport, into traffic to get to the next building. This is looking south coming from the bus stop. This is north. You'll note that there's the curb and you have approximately four inches jump to have to get up on to the sidewalk? And you also have four inches to go down on the sidewalk. I spoke before the travis county commissioners' court on APRIL 1st. It's taken me this long to get on to your agenda, and I certainly appreciate you having me today. My concern is you can't access

-- if you're at the sheriff's department you can't go vote or pay taxes at the tax assessor's office, get license plates. And I would ask that y'all would work. I know there's a proposition for accessibility on airport. I would ask that this area has priority because of the voting situation. And the fire marshal's office and the sheriff's office. And I would ask that you work together with the county perhaps to come up with the funds to have this transpire as soon as possible.

[06:09:17]

>> Mayor Leffingwell: Thank you. City manager, could I ask you to look into this issue for us and give us a memo on it? Thank you very much.

>> Riley: Mayor? I'd like to address that as well. Ms. Crawford, I want to thank you very much for being here today and to call our attention to the pedestrian accessibility along airport boulevard. I completely agree this is a very serious issue. The city has been in conversations with the county for some time now with regard to airport boulevard with the hope of seeing some significant transportation of that corridor to make it much more pedestrian friendly. We actually

-- we also recently got a corridor study completed that outlines a whole series of improvements that would

-- that would address the issues that you've mentioned. And I join you in wanting to see action on those sorts of things sooner rather than later. So I'll be glad to do whatever I can to help with that.

>> Thank you, sir.

>> Riley: Thank you.

>> Mayor Leffingwell: Next speaker is Terri Irion. Topic is Harper Park.

>> I'm here representing Harper Park 2 Limited, which is the owner of Harper Park Section 3 lot, which is currently under contract to Weekly Homes. The Harper Park partnership suspended its efforts to develop an office park last year in order to give Weekly Homes time to pursue a zoning change that would allow for the condominium project that was discussed by the city council and adopted by ordinance in December. Because the neighborhood much preferred to have a residential condominium between their two neighborhoods than an office park. I don't understand the staff's change of heart and the denial of the site plan Weekly submitted after recommending the zoning to you last fall. Nor do I understand the explanation of why they believe the grandfather

-- the condominium use is not grandfathered to the Barton Creek Watershed ordinance. They concede that the court of appeals in 2011 declared the grandfathered use in Harper Park to be office, commercial and condominium. They concede the city must follow the state property code law regarding condominium use and they reluctantly concede that the Weekly project is a condominium under state law. Weekly Homes filed an administrative appeal to the staff's rejection of its site plan last Friday. We're disappointed that there hasn't been a decision on that appeal yet. We're still hopeful that the appeal will be granted. But I would suggest that the final authority on whether or not to accept the Weekly site plan is yours and not Mr. Guernsey's. You set the policy for the city. You legislate the land uses by zoning ordinance and you slated last December a 76 unit condominium project on this lot. Ultimately the 1704 vested rights decisions are yours as well. It was your decision to pursue the Harper Park lawsuit the first time based upon staff's misreading of the law. The staff was wrong and it turned out to be a very costly mistake for

[06:13:11]

the city: We hope that they won't make the same mistake this time. We're appealing to your leadership. Weekly Homes has a great project. It's one that the neighborhood favors.

[Buzzer sounds] and we would hope that the site plan will be approved and

-- because ultimately we believe it's your decision.

>> Mayor Leffingwell: Thank you, Mr. Irion. We will be asking questions about this particular item.

Mandeep Chadha? Topic is water line issue at 6404 Jm Holloway.

>> Thank you very much for giving me this opportunity to talk to you today. I would like to ask for your

help regarding a water line issue at the property where the austin [sic] community is planning to build a temple, temple of worship on 6404. This project has been going on for some time and we've been working on this building. I was distributing the material to you that you can refer to. The austin utility was aware of this project. We had worked with them. There was not an easy solution for water service to the property previously. And the austin water had approved a temporary water line through the austin hindu temple that is an adjacent property on the back side of us, through a private easement. And we had got that approved through the austin water utility. And we're going to use that. Now, recently a distribution order on a transmission line has been put in place to serve the indian hills subdivision that is coming up near your neighborhood. And austin water is planning to serve communities in that neighborhood through distribution lines that are tied into the transmission line. For some reason lanes on both sides of jm holloway, imperial side on one side, and blue bluff, have been tied into the transmission line through a distribution network, but the residents on jm holloway do not have a cost effective solution for water service. I would like to ask for the city council's help in instructing the austin water to provide a cost effective solution for the residents on jm holloway so that we can tie into the city water service without incurring an excessive amount of cost to us.

[06:15:54]

>> Mayor Leffingwell: Thank you. Next speaker is mary a keeney, david weekley homes, harper park.
>> Thank you, councilmembers. I also, like mr. Irion, represent harper park, which is the owner of an 18-acre lot which this council approved a zoning ordinance in 2013 that would allow a condominium project that david weekley homes proposes to build on it. That zoning ordinance limits the condos that weekley homes can build to condos that don't share walls. City staff, after recommending this ordinance to the city council, including its prohibition against shared wall, then disapproved weekley homes' site plan because staff concluded that in order to be grandfathered and subject to the barton creek watershed ordinances, the coned doughs could not be -- condos could not be freestanding, but had to be precisely what the 2013 ordinance prohibits, condos that share walls. I feel like my client and I are living a passage out of joseph heller's novel catch-22. The good news is that city staff has agreed to take a second look at this issue at an informal reconsideration meeting with city staff last friday mr. Guernsey, who heads up the team addressing this issue, represented to us that he wants to follow the law and that he would look at the state law defining condominiums as a basis for overriding staff's initial decision on this. Which that decision was based on the erroneous assumption that the barton creek watershed ordinances define a condo that does not share walls with another condo has to be a single-family home. Those ordinances don't do this. They can't do this. If they attempted to do that they would be in violation of state law. We're hopeful that mr. Guernsey, has staff and his legal counsel will recognize this obvious error of that initial ruling and will follow state law and will reverse themselves. If, however, they don't reverse their decision, I would challenge mr. Guernsey's representation to the council at the last may 1st council meeting where he said that he is the last word on this issue. The citizens of austin elected you, not mr. Guernsey to govern this city, and you have the discretion to direct staff to approve the weekley homes site plans. The city council should not permit staff to leave its initial decision in place. The city council let's staff make the last time in a dispute with harper park over another phase of this same project. Staff was wrong then

and it will be wrong now unless it changes its decision.

[06:19:09]

[Buzzer sounds] and I thank you for your time.

>> Mayor Leffingwell: Thank you. Marcus whitfield. No topic.

>> My name is marcus whitfield. I would like to thank you for the opportunity to speak. As you're all aware, the 18-acre parcel, we've spent the last eight years dealing with it, the regulatory and entitlement challenges pertaining to the city of austin's refusal to accept the grandfathered status of harper park. That eight years is almost half my career. From a business standpoint this could be considered lose-lose proposition for everyone involved. Now before you the opportunity exists to close this final chapter by saying yes to the proposal to develop the final 18 acres of what was originally a 96-acre proposed development. This is the most appropriate use, detached condominiums, which is being currently proposed by david weekley homes. Going back the last eight years, my partners and I have diligently pursued users for the two parcels that remain, including a hotel by courtyard marriott on the front six acres. At that time we were offering green builder, leed certification, water quality and other enhancements and we were told no by staff by 1704 committee. That project could have been constructed and operational and paying property and hotel taxes totient of \$500,000 a year. That would have been enough to pay for the trail of lights during the 2009 and 2011 scaled back and canceled trail of lights, I'm sorry. At that time the contract between us and the hotel developer required us to file suit, and we did. We ultimately won that. And we were refunded quite a lot of money in attorney's fees. That project is now being constructed without those enhancements that we were offering. Here we are today, we are offering the enhancements that the neighborhood requested and that make a lot of sense in this location. From a business standpoint, from a city of austin planning and from the neighborhood's perspective, we would request that y'all please reconsider staff's recommendation. Both the sellers and david weekley have participated in costly zoning, engineering studies, all the stakeholders were involved over the course of the last year. And hundreds and hundreds of man hours, thousands of dollars were spent. This new project was negotiated with extensive setbacks, mitigation of flooding, decreased probability of wildfires, enhancing supply of mid-priced homes, city services and utilities are already there. We're even designing the homes to mitigate the impact on overcrowded schools. If the city staff doesn't change its initial decision

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[06:22:29]

[buzzer sounds]

-- and the council does not intervene, we're left with very few choices. Thank you.

>> Cole: Thank you. Councilmember riley.

>> Riley: Can I ask a couple of questions of staff. I see we have both mr. Guernsey and mr. Lloyd back there and I think we may need either or both of them. Greg, we've talked about this case before and I'm glad to hear that there have been some ongoing conversations. Could you give us any update about what we might expect in terms of next step with respect to the decision making that will be required to

achieve in resolution of these issues.

>> I met with the parties that came before you today in a meeting last friday. I have not finalized my decision. I need to talk with our legal counsel. I told them that I would get back with them within the week. And so that would be tomorrow. And it's most likely it will be tomorrow because I still have a couple of issues I need to resolve with our legal counsel before I go forward. I don't take this decision lightly. I don't necessarily agree with all of the arguments that have been made before you, but there are some things I still am looking at. 45 decisions are important. I would be happy to pass them on to someone else. I've proposed some things in the new ordinance where there might be some disagreement where council would actually have the opportunity to make a final decision on some of those items. 245 isn't one where a decision is made solely on whether one is better in one case versus being grandfathered and that's probably the most difficult part of making my decisions because I have people all the time that will bring forward proposals that will say this is a really good project. It doesn't comply with maybe the barton springs ordinance, but it's close. And being close isn't one that I can simply just say, yeah, I'm going to say that's okay. I'm not monty hall, I can't make the deal that says this is a right decision. My decision is merely one that is this grandfathered under the rules and regulations of state law and city ordinance. And so even though it might be a better project I am forced at times to allow a project that I know would be better if they would build something else only because I think it's better, but it's not so much what I think as it relates if I think it's better or not, it's is it grandfathered or not? And sometimes I'm actually forced to allow a projecting to forward because it's grandfathered to proceed. So I'm still in consideration of this. I have not finalized my decision, but I will get back with them tomorrow.

[06:25:22]

>> Riley: And could I ask that you also let the council know about whatever decision you make?

>> Certainly.

>> Riley: And to the extent that there are legal issues involved, then it seems like if there is any further conversation to be had on this that we could consider including this as an item for discussion at an upcoming executive session. Was that your intent?

>> It was not my intent, but certainly if you request I will be present and bring legal counsel.

>> Riley: And if we hear back from you tomorrow we would be in a position to make some judgment about that. If we did want an executive session discussion of these issues we could do that as early as next week.

>> That's correct.

>> Riley: If you're able to provide us something earlier in the day it would be a little easier because the agenda will be coming out tomorrow.

>> Understood.

>> Riley: Thanks very much.

>> Cole: Thank you, greg. Next speaker is paul robbins.

>> Council, in march several people, including myself, sent you a letter saying that water treatment plant number 4, a half billion dollar facility that will not be needed for 17 years, would cost more to turn on than to leave off. Your water utility sent a poorly crafted response that was void of documentation.

There were nine excuses as to why staff could not leave the plant off until it was needed. Seven of these reasons were absurd or specious. For example, the staff claimed that there were energy savings inherent in the plant and had they bothered to read our letter in documentation, they would have found that these energy savings were in our analysis despite our skepticism that all the savings would be realized. The staff claimed that there would be additional costs with litigation and cancelling contracts when we never proposed cancelling any contracts. My favorite excuse is that our bonds may be down rated. This excuse was voted down the first time it was put up in 2011. The second time was comedy, do what we say or we'll kill your credit rating. Of the nine reasons staff gave to commission the plant there were only two that had any validity. Even those were not completely thought out. One is that the warranty would be lost if we did not commission the plant. This concern could be addressed by operating the plant for the first year and then leaving it dormant until it was needed. Or running the plant at a bare minimum to save on operation and maintenance. The other partially valid reason is that a total restart might cost money or more money. However, this justification is counter weighed by the savings on daily wear and tear, which might be considerable. And incredibly when I ask for a life cycle cost to try and estimate the wear and tear savings on this half billion dollar facility, no estimate existed. The plan fact is that austin will shortly have twice as much treatment capacity as we need, while at the same time having one of the higher cost water utilities in the state. And rates as you know are going higher. The letter we sent recommended a valid budget savings strategy that deserves more than a brushoff response.

[06:29:35]

[Buzzer sounds] could I finish my thoughts?

>> Cole: Let me ask you a question. What is the budget saving strategy that you're advocating for?

>> In our original letter we suggested that leaving

-- just not commissioning the plant would save at least two million dollars a year in overall operation maintenance savings. And that's what we had originally recommended. You all must get six inches of material a day and I know you can't read every single word of it, but I'm sort of responding to what we wrote and then what the utility wrote.

>> Cole: Okay. I think councilmember spelman has a question.

>> Spelman: So I can find it in the six inches per day that piles up over many days. When did you send that letter, paul?

>> I believe we sent that letter march 5th and the utilities sent their rebuttal on about march 26th.

Previous I might add that there's more than one way to deal with this strategy. Maybe units at the davis ulrich plant can be mothballed, shut down until they were needed. This isn't

-- this doesn't have to be specific to water treatment plant 4.

>> Spelman: That's where I was going. If we have twice as much treatment capacity as we have for treated water then it doesn't seem reasonable to keep all three plants going, at least going full bore at the same time. That's something we ought to discuss some way of backing off.

>> Or at least all the units at those plants.

>> Spelman: Thank you, sir.

>> Thank you.

>> Cole: Thank you, paul. Cynthia valdez?

[06:31:42]

>> Hi. Good afternoon. My name is cynthia valdez. I was hoping there would be a full city council seated here today, but unfortunately there's not. However, I'm here representing two organizations. One is the league of united latin american citizens, district 7, and also the austin tejano democrats, who both individually

-- both organizations individually voted to ask that you do not vote to support the recommendations from the combined taskforce recommending boards and commissions and their mergers. We both

-- both organizations believe that in light of the fact that we are soon to elect a new city council under single member districts that we give those newly elected members to the city council an opportunity to look at how the city conducts its business, how it makes its appointments to boards and commissions.

How it accepts the recommendations from those individually appointed boards and commissions members who are sworn to offer the best of their experience, their knowledge from their neighborhoods can be incorporated into recommendations that you all can consider. We ask that you please do not support the option 2 recommendation that staff and that taskforce, joint taskforce is proposing. We ask that you please, please wait until after the newly elected city council and mayor are elected because there does not appear to be any imminent need to change how austin conducts its business. There does not appear to be a need to force our individual communities be it asian-american, african-american or latino, voices to be joined as one so that there can be a better way for this council to hear what is being suggested as far as recommendations on how the individual boards and commissions administer their responsibilities. We are as diverse in our ethnic, cultural communities, as we are in our neighborhoods. As we are in the anglo community. So there does not appear to be that need to create a unified voice amongst us. Allow us the opportunity to present our opinions, our recommendations to the new city council so that we can properly implement whatever systems changes need to occur if be it improved communication, then allow us as boards and commissions members appointed by the city council to say to staff

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[06:34:46]

[buzzer sounds]

-- we want our staff to reflect appropriately the recommendations that our diverse voices have to offer to the city council. Please do not act on that immediately. Allow the new city council to act. Thank you very much.

>> Cole: Thank you, cynthia. Emilio chronis.

>> Good afternoon, city council, I'm here to give you a water fluoridation update,. I wish the mayor was here and mike. I wish mike was here too. Now, this is an article that went viral on social media, dallas ends five decades of water fluoridation. Unfortunately this isn't true. The story behind this is that on the 23rd of april, 2014, [indiscernible] spoke to the dallas city council about the associated costs with water fluoridation. City councilmember kadane made the following remarks after she spoke. Quote, thank you

for bringing that forward and I would just like to say to all my colleagues that I think this is a good situation for us to do away with the fluoride. We don't need it and we just saved a million dollars that we can use immediately for something else like libraries, rec centers. And I'd like to say I've already talked to the ac about this and we're looking into seeing what we can do to halt this immediately so we can get the funds upfront, unquote. Now, it cost us about four million a year. What followed was a wave of articles published by various media outlets and online debate in which dentists and other individuals adamantly defended fluoridation despite the mounting evidence of harm, ineffectiveness and damage in water plants associated in water fluoridation. All right. In beaumont, texas, city water utilities director

[06:36:58]

[indiscernible] spoke to the city council about how fluoridation chemicals corrode pipes leading to excessive water treatment plant costs and should consider ending fluoridation. He also told the council he would provide more data in the coming weeks. Guess what? There's a dentist on the city council. Dr. Allen coleman said he would make research available from the texas dental association proving fluoride is safe and reliable. Why are dentists so heavily involved in what's being added to our water? Where are these dentists? We want a debate. Debate us. In san marcos, texas, on the fifth of may, 10 speakers, that's right, 10 speakers, spoke out at their city council meeting about ending fluoridation. Dr. Ted norris, katherine blaze, john bush and others, they spoke to the city council about ending fluoridation. These are good people that are well informed about this issue. And they're trying to get the word out to end fluoridation. Floss addition started in the 19 40's. We can end this in 2014. This happened yesterday. Des moines city, michigan. The city council voted to end fluoridation. The mayor pro tem was one of the city members to vote it out. He did his research and decided it should be up to the individual whether or not to ingest fluoride. Just like religion and voting. It's up to you.

[Buzzer sounds] I don't have to choose a religion and I don't have to vote and I shouldn't have to bathe or ingest nor row sill list sick acid. Neither should you all.

>> Mayor Leffingwell: Thank you. Next speaker is robert morrow.

[06:38:59]

>> Good afternoon, city council. A quick recap here on lyndon johnson. In 1952 he murdered sam smithwick in prison because he was going to talk about the box 13 scandal down in alicia, texas where 200 people voted for lyndon johnson in a fa bet kel order, some living and some dead. Coke davidson was on the way to visit smithwick in prison and he's murdered. In 1961 lbj orchestrated with his personal hit man, malcolm wallace, a former student president of the university of texas, the murder of henry marshall because marshall was investigating billy sol estes and his ties to lyndon johnson. In 1973 johnson used his friends in the cia and military to murder john kennedy because the kennedys were within days of politically executing lyndon johnson who they hate and who had black mailed his way on to the ticket in 1960. A very important book was written about 11 years ago, it's called operation cyanide. It's about the attack on the uss liberty in 1967 on june 8th that occurred on the fourth day of the six-day war between israel and its arab neighbors. Israel was very concerned that its arab neighbors were about to attack it. Israel was massing a lot of troops on the border so israel launched a preemptive

attack against four arab states. On the first day they wiped out all the air forces of egypt, syria, jordan and iraq. The next couple of days they wiped out every single tank that egypt had. On the fourth day after israel is already ahead 60-0 if there were it were a football game, suddenly out of the blue israel attacks an american ship, the uss lib u.T. And the reason they did that is because lyndon johnson ordered them to do that so they could sink it and blame it on egypt and give the united states a pretext to attack, bomb and take aeneaser of egypt. The only way to understand why israel would do that or why lyndon johnson would order that is to understand that lyndon johnson was a lunatic. And once you understand that it makes sense. The smoking gun on the uss liberty is that the u.S. Strategic air command went on high alert before the attack on the liberty. And only the u.S. President could order hydrogen payload bombers, 3-52s on the tarmac, an hour before the liberty gets attacked. After the liberty was attacked the sixth fleet sent two rescue ships, because they had a flash bulletin within 10 minutes, miraculously, lbj personally called them back

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[06:42:00]

[buzzer sounds] mayor r.

>> Mayor Leffingwell: Your time has expired. Mary bunn. Onion creek and the 911 system.

>> My question to the council will be at the end of a little bit of incident ducttory and it's different from the questions you've had leavely. Last october 31st I went down river front road. The car in front of me was just fine. The flash flood hit the car and I was washed down the street six to eight houses.

Fortunately my car it came to rest at the last house right before onion creek itself, right where the bridge is, the bridge which remains out to this day and as you guys know, or maybe don't know, it's now been extended to a projected date of july until it will be reopened. So that's just to tell you the force of the water that I found myself in. At 6:40, and I have my phone records, at 6:40 I called 911 and I waited for four minutes. I had to hang up because I didn't know what to do. I called a friend. I didn't know what to do. And the water was getting pretty high in my car. After a minute I called 911 back and I waited for five minutes and still did not get through to a human being. I did not know what to do. I made the decision to get out of my car and try to make it to a tree. Other than god himself, there is no rational or reasonable explanation for how I made it to that tree. But I did. And I managed somehow to keep my phone. I continued to call 911 and continued to get no help. I called one of my best friends and left a message. I told her, I think

-- I don't remember, but I called heir because I knew she could help me because seven years ago she had been the public information at a.P.D. And she would know who to call because I couldn't get help. I was in the tree at that point. I kept calling 911 and got nothing. Finally at 7:15

-- I'm sorry, 7:14, 34 minutes after my phone call, 911 called me back as I was in that tree. And at 8:24 westlake fire department got me to the ground and safe. That's a long time, most of which was in the pitch dark by myself. Something, if not everything went wrong with 911 that day, as you guys are aware. It's broken and I don't believe it's been fixed yet. I have read some of the reports, not all of them because I can't, and I've seen some of the numbers. And I want you to know that some of those numbers are misleading. For example, there were 439 calls reports say in the 6:00 hour. Well, that makes it sound like there's 439 incidents. I was five of those calls. When neighbors finally came out and

could see as light came up, they called on my behalf. Some of those calls were from the same incident and what was a probable 10 calls on my behalf should have been one call at 6:40. So I think that those are misleading.

[06:45:30]

[Buzzer sounds]

>> Mayor Leffingwell: Thank you, ma'am.

>> May I get to one question, mayor, please? I am here to ask you guys what can I do for you to fix the system? All you have to do is tell me and I'm here. I will help in any manner to help fix this broken system. So please use me where you can and how you can.

>> Mayor Leffingwell: Thank you, ma'am. [Applause].

>> Mayor Leffingwell: That pleats our list of speakers. Council will now go into closed session to take up five items. Pursuant to section 551.071 of the government code, council will consult with legal counsel regarding the following: Item 10, legal issues related to austin fire department hiring practice settlement. Item 11, legal issues related to legal services contract with reeves and brightwell llp. Item 38, legal issues related to eddie rodriguez and others versus rick perry and others. Item 39, legal issues related to austin fire department hiring. And item 40, legal issues related to the water creek tunnel -- waller creek tunnel project. Without objection the council will now go into executive session.

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[09:37:08]

>> Mayor Leffingwell: In closed session we took up issues related to items 10, 38 and 40, noting that items 35 and 36 were withdrawn and item 37 discussed in an earlier this morning closed session. So now we'll go to the soaping items, consent agenda.

>> I'll go through the 2:00 zoning ordinance and restrictive covenant items. The first items I'll present is where the public hearings have been closed. Item number 41 is case c-14-2013-0083 for the property located at 2416 east sixth street. This is a zone change request to general commercial services vertical

mixed use building conditional overlay neighborhood plan. I'll note that you have a revised notice and restrictive covenant on the dais in yellow that just reflects the revised legal description. This is ready for consent approval on second and third readings. Item number 42 is case c-14-2013-0136 for the property at 3215 exposition boulevard: This is ready for consent approval on second and third readings. I'll note you have a revised ordinance on the di dias. Item number 43 is case c-14-2013-0150, this is for the property located at 9908 to 10010 anderson mill road to zone the property to limited office conditional overlay with conditions. And this is ready for consent approval on second and third readings. I'll move on to the 2:00 zoning and neighborhood plan amendment items. These are where the public hearings are still open and action is possible. Item number 44 is case npa-2014-0027.01. This is for the property located in the central west austin combined neighborhood planning area for the property located at 2208 lake austin boulevard. The applicant has requested a postponement of this neighborhood plan amendment to the flum to june 12th. Item number 45 is case c-14-2014-0015 for the property located at 2208 lake austin boulevard. The applicant has requested a postponement of this item to your june 12th agenda. Item number 46 is case c-14--80-016 rct for the property located at 2208 lake austin boulevard. This is to approve a restrictive covenant termination for the property. It was recommended by the planning commission to grant restrictive covenant termination and this is offered for consent. That's item number 46. Item number 47 is case c-14-2013-0110 for the property located at 6507, 6603, 6505 east riverside drive and 2108 thrasher lane. The applicant has requested an indefinite postponement of this item, 47. We'd have to be renotified and reposted before it could be brought back to you. Item number 48 is case c-14-2013-0134 for the property located at 12401 dessau road. The staff is requesting of this item on your june 12th agenda. Item number 49 and 50 are related items.

[09:40:53]

>> Mayor Leffingwell: 49 and 50 will be pulled off. I believe there will be some amendments made. We'll be right back handle them after the agenda. Item number 51 is the property located at 9829 and one mav north lake creek parkway. The zoning and platting commission commission's was to grant the multi-family residence highest density district zoning and this is ready for consent approval on all three readings. Item number 52 is case c-14--2014-0030. Sh. This is the property located at 13635 rutledge spur. This is to zone the property to multi-family residence high density. The planning commission's recommendation was to grant multi-family residence moderate high density conditional overlay combining district zoning. And this is ready for consent approval on first reading only. Item number 53 is case c-14-2014-0035 for the property located at 4300 avenue g. Staff is pulling this from your agenda. It should have been put on your agenda for may 22nd as it has been postponed from a previous meeting to that date by the city council item number 54 is case c-14-2014-0037 for the property located at 801 west wells branch parkway. Staff is requesting a postponement of this item on your june 12th agenda. Item number 55 is c-14-2014-0038 for the property at 801 wells branch parkway. Staff is requesting a postponement of this item to your june 12th agenda. Item number 3656 is case c-14-2014-0051 for the property located at 1194, 1196 and 1198 naiver so the that street to approve a zoning change to general commercial services, mixed use conditional overlay neighborhood conservation combining district combined district zoning to change the condition of zoning. The planning commission did recommend the zoning change request this past tuesday and it's ready for consent approval on first reading only.

Item number 57 is case c 814-2012-0085.01 for the property located at 12814 interstate highway 35 south and f.M.1327 south i-35 service road southbound. Staff is requesting a postponement of this item to your june 26th agenda.

[09:43:42]

>> Mayor Leffingwell: So the consent agenda for the zoning cases is to approve item 41 and 42 on second and third readings, and noting that that is the revised version of item 41. To approve item 43 on second and third readings. Okay. I've got a typographical error. Approve item 43 on second and third readings to close the public hearing and approve items

-- and postpone items 45 and 46 until june 12th. 44 and 45, what did I say? Item number

-- to close the public hearing and approve item 46. To postpone item 47 indefinitely. To postpone item 48 until june 12th. To close the public hearing and approve item 51 on all three readings. To close the public hearing on item 52 and approve on first reading only. Item number 53 is withdrawn. Pope items 54 and 55 until june 12th. And to close the public hearing and approve item 56 on first reading only. To postpone item 57 until june 26th. I'll entertain on motion on the consent agenda.

>> Spelman: I just want to clarify that we're not closing the public hearing on 44 and 45. We haven't held it yet. And we're going to be postponing the public hearing and action on that item, is that right?

>> Right.

>> Spelman: Both those items?

>> Mayor Leffingwell: 44 and 45 are postponed. So obviously the public hearing is not closed.

[09:45:43]

>> Spelman: With that proceed advice so I

-- proviso I move approval of the consent agenda.

>> Mayor Leffingwell: Motion by councilmember spelman. Seconded by councilmember martinez. Councilmember morrison?

>> Morrison: Item 46 also goes along with 46 and 45. I'd like to ask they be postponed to be heard at the same time.

>> Mayor Leffingwell: Okay. We want to remove item 46 from the consent agenda.

>> Morrison: Make it a postponement until the same time as 45 and 44.

>> Mayor Leffingwell: Is there any objection to that on the council without objection?

>> Spelman: Greg, you've left 46 on the consent agenda?

>> I did. It's my understanding that applicant and the neighborhood are in agreement with the commission's recommendation and we could offer that for consent if the council wishes to postpone it, that's certainly up to you, but as I understand the parties that have been involved are okay with it going today.

>>

>> Mayor Leffingwell: It was part of the consent agenda that you just made the motion on. So I would have to ask you if you would agree with pulling

-- with postponing that item until june 12th.

>> Spelman: Given the parties agreed to the restrictive covenant termination it seems to me that would be appropriate, but maybe councilmember morrison can talk me out of it.

>> Morrison: I think since they're all related to each other, I'd just as soon hear them all together. And I can't imagine that there would be any reason that they're going to move forward on something because of the restrictive covenant. We could ask. With the postponement, take some action based on the restrictive covenant with the postponement already agreed to on the other two items.

>> Spelman: If we postpone the other two items it won't affect the postponement on the restrictive covenant either way so we may as well postpone it. I would use the same preamble and say we may as well accept it, but it doesn't really matter. I'm happy to postpone it.

>> Morrison: Thank you.

>> Mayor Leffingwell: So the change to the consent agenda is that item 46 will be postponed until June 12th. Is there a second to approve the consent agenda as amended? Seconded by councilmember morrison. Councilmember tovo.

[09:47:57]

>> Tovo: Sorry, we had a few confusions there and I want to double-check a few things s 42 on the consent agenda? I didn't hear you read it.

>> Mayor Leffingwell: Yes. I know I read that to approve 41 and 42 on second and third readings.

>> Tovo: You certainly may have, I just missed it. And then the other did I hear you say that 53 is withdrawn? I thought we were just postponing it or Mr. Guernsey, did I miss it that it's on this agenda and next week's agenda. 53 was actually postponed by council on May 1st to the 22nd so it will appear on your agenda next week and just pulled off the agenda. No action required for today. It was put on your agenda by consent.

>> Tovo: So we're withdrawing it today. We're not postponing it because it's already on next week's agenda.

>> That's correct.

>> Tovo: All right. I think that clarifies it. Thank you.

>> Those in favor of the motion to approve the consent agenda say aye? Opposed say no. It passes on a vote of seven to zero. And I believe we will now take items 49 and 50 together on consent with a minor amendment offered by councilmember Riley.

>> Riley: Items 49 and 50 relate to the church annex at 29 and a half 40th street. That is next to the consoling residence hall across white advertise to the west

-- the east from the residence hall. The lot is currently zoned mf 5 h and the requested zoning is to cf-cm-co. I raised a question the last time it was before us if there was any possibility of including some residential component on the site given that it is currently zoned mfa, in the middle of an area right next to other dense multi-family student residence halls and there is obviously an urgent need for more student housing in that area and in the surrounding area. And it seemed like before we rezone it away from mf 5, which would be worth considering whether some housing component could be accommodated on the site. I've had conversations with the applicant about that and they have agreed some provisions that are outlined before you on the yellow sheet that I passed out. That addresses the possibility of adding a residential component in the future and also addresses the effect of the garage on

the pedestrian environment in that area. As we've seen downtown and other places, parking garages aren't always the most pedestrian friendly structures, but they can

-- but the impact on the area can be mitigated through certain measures. And so what

-- I'll go over the paragraphs that are on the proposed amendment. The first would provide that the ground floor of a parking structure must include occupy space along no less than 75 percent of the length of street electronic along university and whitis avenue. There would be some use at the ground level other than simply parking space. The second paragraph provides the upper levels of the parking structure shall be screened from adjacent properties and that the upper levels shall be screened from adjacent properties utilizing a green screening mechanism with living plant material which would be especially helpful given that would be a backdrop for the historic church so that as you're looking at it from its frontage on 27th street instead of seeing a big parking garage behind it you would see a green wall. The third paragraph provides that the parking structure shall be approved in accordance with the design guidelines or alternative minimum compliance as allowed in the i-35 lay. And finally, the last paragraph says the parking structure shall be designed to accommodate load requirements for future residential units above the parking structure if such units are desired and permitted in future. At this time the church is not interested in taking on a role of landlord, but this provision would ensure that in the event circumstances change in the future to the point where the church might have some interest in entertaining that possibility that there still would be some possibility of having a residential component on top of the parking structure. So with those additions

-- before I make any motion on that I want to thank the church for

-- and their council for working towards agreement on these things. I think these terms will actually help a lot to ensure that we maintain a healthy, positive pedestrian environment around there and would also allow for future circumstances that might be different where residential might be more of a consideration for the church. So I very much appreciate the church and their representative for having those discussions. With that I will move approval with those changes, which I don't know if that could be -- let me ask greg. Could those terms be incorporated in the conditional overlay?

[09:53:28]

>> We're going ticket-to-work with the law department and see the most appropriate place to put that in. I assume that's for item 14, c-14-2014-008 at 209 one half west 27th street and also item 50, c-14-2014-009 at 209 west 27th street, modifying the zoning and platting commission's recommendation on both of those. We'll work with law department to find the most appropriate place to put that.

>> Mayor Leffingwell: That's first reading?

>> These are only for first reading for both of these today.

>> Riley: With that, mayor, I'll move approval with first reading only with those provisions incorporated as deemed appropriate.

>> Mayor Leffingwell: Motion by councilmember riley to close the public hearing and approve items 49 and 50 with the changes you outlined on first reading only. Councilmember tovo.

>> Tovo: I'll second that, but I have a question about one of the amendments. Councilmember riley, the number one amendment, is that when you say occupy space do you mean commercial or residential?

>> The church actually had a fairly specific idea of what uses it wanted to see in there. And we certainly

didn't mean residential. Mr. [Indiscernible], do you want to let us know what are the uses that the church had in mind for that space?

>> Thank you, councilmember riley. John denisi with the droner group on behalf of the church. The church had long planned to have administrative offices and then a student center.

>> Tovo: Okay. So that's consistent with your vision for how howe to use the property, having that space. Thank you. Very good.

>> Mayor Leffingwell: Further discussion? All those in favor, signify by saying aye of the motion say aye? Opposed say no? It passes on a vote of seven to zero.

>> Thank you, mayor and council. That concludes the zoning items for today?

>> Mayor Leffingwell: So now I believe the only item we can go to is item 24 and 25. I'd suggest we combine the public comment period on those items. They're mostly the same folks signed up. We have not quite three hours of public testimony. I'll just check and see if there's a desire on the council to put a time limit on the amount of the public testimony. Councilmember spelman.

[09:55:50]

>> Spelman: Mayor, we could handle items 10 and 11.

>> Mayor Leffingwell: 10 and 11 is set for a time certain of 4:30 by martinez and riley. Councilmember morrison?

>> Morrison: I think that these are not public hearings on our consent agenda so we can limit them if we deem it possible. I would certainly be open to 30 minutes per said for limitation.

>> Mayor Leffingwell: Is there any objection to that?

>> Tovo: It's never my favorite thing to do to limit public testimony. Do we have a sense of whether this idea has been presented to some of the parties involved and whether they're comfortable?

>> Mayor Leffingwell: My sense is nothing has been presented. [Overlapping speakers]

>> Mayor Leffingwell: Thank you hear what I said?

>> Tovo: I'm pondering it. You said your sense was that nothing had been presented to them.

>> Riley: Mayor? You're suggesting that we limit the

--

>> Mayor Leffingwell: Councilmember morrison has made the suggestion and I'm supportive of that, that we limit it to 30 minutes per side.

>> Riley: And often when we do that we make it based on some input from those who are here to speak as to whether they would be okay with that. Has anyone had those conversations at this point? I know there is a lot of interest in this item. It is a matter of great concern to a lot of people in the public and I would just ask whether the council would be

-- my preference would be to allow more time than that. Would either an hour or 45 minutes per side be acceptable?

[09:57:51]

>> Mayor Leffingwell: 45? 45 minutes per side? Any objection to that?

>> Yes, right here. I object [indiscernible].

>> Mayor Leffingwell: Sir. You're not to speak from the gallery. If you shout out from the gallery again I'm going to ask you to leave.

>> [Inaudible].

>> Mayor Leffingwell: Do you want to be asked to leave the chamber? That's okay. Don't answer. That was a trick question. [Laughter] all right. So if there's no objection, we'll limit to 45 minutes. And you're perfectly free as the first few speakers come up to get together and decide who you actually want to speak. Do you want to go to public comment or did commanders or riley want to make comments initially? We'll go directly to it. We'll take those four first. First speaker is eric goth. Is steven [indiscernible] here? You have six minutes.

>> Morning, council. I'm happy to take less than six minutes. I'm speaking in favor of these items today for a few reasons. Primarily because they increase the amount of transportation options available to austinians and from a public good perspective making sure that more people have more access to transportation that's not their own single use vehicle is always a good thing

-- all else being equal. With that in mind these options allow more innovative ways to access the transportation, finding drivers or riders who are previously highly rated. Ones near you, ones that are lower cost, as well as allowing for one vehicle to serve multiple riders over the course of an hour, all scheduled automatically over the internet. That aside, I think this doesn't just benefit the public good and potential riders who either are carless or prefer to be carless, but also has a good benefit for the people providing this service, namely the drivers. These services tend to let drivers set their own hours. The compensation to the drivers is variable based on the agreement between the companies and the drivers. And if you don't like it, you can switch from one to another. That's different than the current cab service which all cab companies have the same fares set by the city and the compensation is effectively equivalent so even if you switch from one cab company to another, you can't increase your compensation. But through the powers of choice and switching between different providers you can find the best deal for you as a driver. So I think it has benefits across the board for all members of the community and we can deserve those benefits or the lack thereof in a pilot program. So I encourage you to endorse these items. Thank you very much.

[10:01:38]

>> Mayor Leffingwell: Thank you. Dan kachette.

>> Good afternoon. I should only need about two minutes. My name is dan kachette. I'm a board member of aura and aura has endorsed both of these resolutions, but I'm here speaking tonight on my own behalf. Before I start my testimony I want to warn all of you that I am insane. I'm crazy. That's what people tell me when they find out I live in austin without a driver's license. The city just isn't built for living without a car, they tell me. What if something happens? And I always say with the money I save from not having a car I can afford to take a cab when I really need it. I use taxis when I'm too sick, too tired or have too much to carry to take public transportation. I've taken them to doctor's offices that aren't served by cap metro, to take friends home from the hospital, to take my cat to the vet. They're not allowed on cap metro buses. But far from being a reliable emergency backup, taxis are extraordinary hit or miss in this city. I've had dispatchers tell me there will be a long wait because it's off peak and there aren't that many drivers available. I've had dispatchers tell me it will be a long wait because it's

peak and all of the drivers are occupied on other calls. I've had cabs be an hour late, I've had cabs fail to show. The experience of wondering whether a cab is going to show to take you to or from the hospital is the kind of defining experience that really makes people give up on living without a car. It makes people feel like they really are crazy to try living without a car. They are an essential backup for those of us who need to get around without driving a car. Moving forward with those resolutions has potential to provide us with additional options and I urge you to support it. Thank you.

[10:04:20]

>> Thank you, mayor, councilmembers. As you just heard, the taxi cab service is hit or miss. It's not available regularly when you need it, when you're sick, when you need to go to the doctor or the vet, and when you are a person with a disability it's even more hit, more miss than hit. So as you know we've testified many times, members of adapt have worked hard to get accessible transportation to be a regular part of the taxicab service as required by the a.D.A. And councilmembers have worked to improve the regulations to help us to determine whether or not it's working. I've got to say, when the current regulations now say that accessible taxi cabs should be available within seven minutes' range of when a non-accessible cab would be there. So how am I supposed to measure that? Am I supposed to call two cabs at once and one of them be regular and one be accessible and check it with a stopwatch? I can't determine whether they're equivalent service by just guessing. The requirements under the add dar equivalent service. My understanding is that the list service or the uber services and the transportation network that's going to be provided under these proposals are not really regulated under the a.D.A. Now, as a limousine service there are requirement r requirements for limousine services to be accessible, but it's kind of a gray area that's being here. However, there are alternatives to the taxi cab service that is more miss than hit right now for people with disabilities. And I've got to say that the lyft folks have aggressively and successfully reached out to the disability community and had conversations with my organization and other disability organizations here in austin. So for that reason I know that they're excited about bringing transportation options to the disability community and that excites me. So I will support and adapt supports the resolutions, but especially I want to say that we're anxious to be included with the city manager's efforts to work with the stakeholders. We are the stakeholders in the transportation industry in austin. Thank you.

[10:06:45]

>> Mayor Leffingwell: Thank you. Heather ross? Heather ross.

>> Hello. I'm heather ross. I have epilepsy. I was diagnosed when I was 10. And living in austin I've gone from

-- I've gone from driving to not driving, driving and not driving again. And it's really not the easiest thing getting around in austin without a car. I've rode the three from south austin, manchaca and slaughter to the domain the other day and it took an hour and a half. If you have a car it takes 30 to 45 minutes. And having a disability, making there be as many accessible options as possible when you can't drive is really what this should be about, for everyone. And also when it comes to traffic. Traffic is a huge part of the conversation and problem. Everyone is constantly talking about traffic. Even when I'm sitting in the car

with someone giving me a ride, they're constantly complaining about traffic. When you're riding on the bus you see traffic all around you. And I think that this would definitely alleviate a good portion of traffic because we would be getting more people off the road from driving. And having a disability would be making sure that people would have more options and including us in the conversation. I think that would be a large part of what austin is about. Austin has always been about inclusion. And I think that is really important here. Thank you very much.

[10:08:47]

>> Mayor Leffingwell: Thank you. Jason Crawford.

>> Thank you. I'm here today just to kind of speak on my experience with uber specifically as part of these resolutions. When I landed in the airport

-- I travel extensively. The first thing I do is launch my uber app to find out if it's an uber city and I can tell you the way that those cities are completely different than the ones who don't have it. Uber, and the reason that I use that particular company, is consistency, high quality, safety, efficiency and extreme reliability. Things that the other speakers have mentioned is a deficiency in austin. I've used uber in Melbourne, Sydney, Boston, LA, San Diego, San Francisco, Jacksonville, Dallas, Chicago, Manhattan and San Francisco in the past year. When comparing a lot of innovative and progressive cities like that it disappoints me that austin has not welcomed these types of services to be available to our residents and to our visitors. Uber is about options, as everybody has said. And I do feel that our city is extremely underserved by the taxi system that's currently in place. I don't blame them or the drivers, it's just we are growing so rapidly, we need more options available. And uber can deliver that. When I have visitors that come in from Dallas and Houston, the constant complaint that I get is the frustration that they cannot get from my neighborhood, which is only in Zilker Park, to downtown. And it prevents them sometimes from visiting me based

-- visiting the city based on those experiences. In San Diego and New York I've had to wait for an hour to get transportation because uber is there. And their ability to on demand ramp up and service us is fantastic for me. Furthermore, one other experience that I constantly get and which is the nice thing about some of these services is I do get a lot of frustrated drivers that aren't willing to

-- are wanting to accept credit cards. And just time and time again I get these looks of disgust and it's the least favorite part of my taxi experience in austin is when I'm getting dropped off. And with these services they are completely automated, easy to use and very convenient. Plano where I grew up had a real big problem with taxi services. They have recently added uber to their options and we have been using it extensively and it's allowed us to get around that city a lot better. In closing I just want to thank the supporters of the respective cab companies that have come here and I want to remind them that the cities like New York, San Diego and LA who have added these services still have an extremely thriving taxi service. And I don't think that's going to infringe on that, but for me as a resident and for the visitors that come here, I think it's important that we have more options and high quality options like uber.

Thank you for your consideration on these resolutions.

[10:11:59]

>> Mayor Leffingwell: Alex kiterman.

>> Good afternoon, councilmembers. I'm here to speak on behalf of the student body, both u.T., St. Edwards, concordia, acc. There have been countless times that I can pretty much name every single one of my friends has either called a cab and waited an hour and it just not shown up, gone downtown, tried to get a ride just from downtown to west campus, did not pick them up, just passed by them and ignored them completely. So I'm here to tell you that the current taxi system is just not working. We do need these transportation networking companies to be in town. Not only do they help students, they help everyone else. I completely agree with everything everyone has already said, but there's been countless times where somebody almost has to walk home from that downtown area because they had to wait two hours at two a.M. To be able to get a ride home, which is unacceptable. I currently have a car, but I choose not to drive downtown because parking is expensive and I also do not want to drink and drive. So by limiting this it kind of opens the opportunity for students and other people to get d.W.I.S and dui which risk lives and could prevent situations such as the south by southwest disaster. So in close, all I'm saying is consider companies like lyft and other tnc companies, they're here to help us. We need to at least consider and hope that it's a possibility. Thank you for your time. I appreciate it.

>> Mayor Leffingwell: Sarah levine? Donating time to sarah is jacob lamare? You have six minutes.

>> I'm here representing atx safer streets and we are focused on late night transportation issues in the city. We fully endorse both items 24 and 25. We believe that in order to reduce drunk driving incidents, deaths, everything else, we need to have more options at late night times. Obviously taxis are failing us at this point. We did a study of

-- we did a survey of 651 austin residents and 84% of them reported they had trouble hailing a cab. 72% had called a cab, they another showed up. 43 said they had been refused service due to their destination. 30 said they had been refused service for not being able to pay with cash and 26% said that their cab drivers had been inappropriate at some point. A full 73% of them also said that if cabs were more available they would use them, but it is lacking right now. Customer service obviously is a big complaint with the taxi services here in town. We do not believe it's the government's role to enforce good customer service. We believe that introducing competition in a transit marketplace will make cab drivers and cab companies want to change this behaviorally forcing them to have to compete for their share of the market. We believe that transportation network companies can do this. What local government can and should control is the number of cab permits that are currently available. Austin currently has one cab per until every 1100 plus residents. The second lowest out of four major cities that we researched, san antonio is worse at one for every 1700, but houston and dallas sit at about one for over 600 residents. So we propose the following, which is being covered under item 25. We would like to see peak demand permits, put extra taxes on the roads at nights and weekends when they're needed. We would also like temporary permits for out of town cab byes to come in, work several events. And we would also like the city code changed instead of taxis, the current language, which is taxis must pick up at a reasonable distance, there needs to be a set distance there. We would also like to see taxi stands utilized downtown. They already exist. Nobody knows they exist and nobody uses them. It will stop people from running into the street to hail a cab as frequently as they do. And of course, transportation networking companies, 73% of the people we surveyed said they would use

-- I'm sorry, 81 percent of the people we surveyed said they would use transportation networking companies if they were in town. We really like the legislation that california put forth requiring the

background checks, drug checks, the commercial insurance, and
-- sorry. And we think that's a good model for it. So
-- sorry, I lost where I was. I think that's pretty much it. Obviously the biggest one that we got on there has nothing to do with tonight, but I want to say it, 94% of the people who took that survey want later transportation on buses. They said they would use it if it ran later. Thank you.

[10:16:53]

>> Spelman: Mayor, quick question.
>> Mayor Leffingwell: Councilmember spelman.
>> Spelman: How did you conduct that survey?
>> We conducted online. We put it up for about a week and we basically just shared it online, had other people share it. I can send you an email with all of the information that we got from it if you would like.
>> Spelman: You put it up online where?
>> At atx safer streets.Org.
>> So the group that you've got a lot of people signing the petition for?
>> Yeah. And then we got 651 people in that week to take the survey.
>> Spelman: Gotcha. So you're not making a claim that this is necessarily representative of the austin population, are you?
>> It's a sample, especially of the night people. And it's a very good representation of the complaints that we've heard across the board doing this.
>> Spelman: It mirrors your complaints among the people you've been talking to.
>> Basically when we took the survey as the number of respondents grew, the percentages stayed the same, which means that essentially everybody that responded was having the same issues, but, you know, the numbers just grew.
>> Spelman: At a minimum we can say there's a lot of people who have complaints.
>> Yes.
>> Spelman: Thanks.
>> Thank you.
>> Mayor Leffingwell: Rebecca mckeever. Rebecca is the last speaker we have signed up for on items 24 and 25. If I didn't call your name please get my attention after rebecca gets through speaking if you're for. Councilmember morrison?
>> Martinez:, THANK You, mayor. I'm looking at the sign-up sheet. There are a few who signed up in favor, but only signed up on item 25. So there still will be a few more.
>> Mayor Leffingwell: That's the reason I said that because I haven't checked that yet. Go ahead.
>> Hi, I'm rebecca mckeever, and I do not have a car or a license. I choose to live car-free. And I -- to get around town I try to walk or use the capital metro buses, but sometimes I'm not able to do that and I use paid rides as a backup. For example, if I'm too sick or injured and I can't walk or I have too much stuff to take home. And I have two cats and I can't bring them on the buses. And also, capital metro's very limited late at night and they're not always on time if there are buses available. And if you call a taxi you still have to wait and I feel unsafe if I have to wait in the middle of the night for more than a few minutes for a bus or a taxi home. And also when I take the mega bus or the greyhound out of

town, sometimes they are late and I miss the bus, but
-- then I'm out of options and I have to call a taxi and I don't want to wait around late. And then so that's
why I'm in favor of proposition 24 and 25. Thank you.

[10:20:38]

>> Mayor Leffingwell: Thank you. So pete salazar, you haven't spoken, have you? Is pete here?

>> I'm right here.

>> Mayor Leffingwell: Donating time is chris hoister. You have six minutes.

>> Hello, mayor and council. Excuse me. My name is pete salazar. And I'm a native austinite. I'm also a member of district #. As many of you heard there's many options to ask to bring new representation as far as transportation, but what I'm wanting to suggest is something that we already have in place and we can implement fairly easy that really hasn't been done in my lifetime of living in austin. I'm 34 years. We could expand our bus transportation to extend it in areas and time. Every major city has this to its capacity. We already have this expanded in our dillo systems, our night owl systems. But those systems are only in certain areas of the city. Now, when we speak to transportation, we're not only talking about getting a ride home when you're going out enjoying yourself in sixth street or other areas, what we're talking about is access to the city as a citizen. More than 30% of our populations depend on public transportation, and that's more than the elderly, or the disabled. 30% of our population for whatever reason choose or have to take transportation, public transportation. So then it becomes more of an issue of convenience and it becomes an issue of is it right as a citizen to access your city at a time and place that you feel appropriate and where you can go, where you desire to go. Without these things in place we are stopping somebody from enjoying our city. If you want to have drinks with friends at the domain or you want to go to south congress or whatever capacity, with that implementation you are basically segregating a population by them not having the transportation in place. We call ourselves a great city. We want to be a great city, but part of a great city is coming up to meet the needs of its citizenry. And part of that is looking at what you have in place and just expanding it. For 34 r.34 years I've lived in austin texas and there has been no way or no explanation of why our bus systems have not expanded in my lifetime. I mean, I want you to stop and think about that. I've been a native austin resident for 34 years and our bus system has changed minimally. That means that you new people that come into austin, whether they're used to taking public transportation or not, are limited in their movement. That affects their right to work. That affects their right to enjoy a quality of life. There are millions of people that work third shift. I was an employment specialist for a nonprofit organization here. My job was to find employment for newcomers of austin. By the nature of their capacity, they could not drive because they were refugees and other people. They literally got trapped at the domain. When the last bus came at 11:45. And they walked five miles until they had arrived to get to a place. Now, they're used to that due to the nature of their home, but in the city and a country like the united states, that should never be allowed. Now, of course, we have all capacities and all levels of transportation, but there should be a guideline and a baseline for when you come to austin, texas we at least have the capabilities for you to improve and enjoy this city, wherever it is, because that is as a fundamental right. And if we do not do that then we're not only doing a disservice to the population, whether they be disabled, whether they be elderly or whatever, we do a disservice to ourselves because

it is this council and this public that can decide how they define themselves and make a guideline of what is right. So I support y'all, but I ask you to look beyond what is popular and establish a baseline that say if you come to austin texas we're more than live music, we're more than weird, we're inclusive and we're inclusive to the point that we will go beyond what is to what could be. So I do support y'all, but I ask you to look beyond what is being asked and to look beyond what is possible. It's very easy to get public transportation. We have to make sure it's necessary and possible and I think everyone here can agree that it's both. And I have no doubt that this council can make that a reality for everyone. And in doing that we can truly be one city regardless of how many districts come in the future. Thank you.

[10:25:56]

[Applause].

>> Mayor Leffingwell: Jennifer houlihan.

>> My name is jennifer houlihan. I'm here today as both executive director of austin music people, the organization for austin's \$1.6 billion music industry. And as a voter and a citizen of austin. I support the proposed resolution sponsored by councilmember riley and co-sponsored by councilmembers martinez and spelman. Consider the data. Taxi cab complaints keep going up. According to a recent media report, 70% year over year. Waits of an hour or more are common, leading to a variety of public safety issues. Some drivers, not all, but some routinely and illegally refuse fares. This is not behavior you reward. This is behavior that you change. The number of tickets issued to unregulated or gypsy cabs is somehow going down. Even though a.P.D. is putting their best effort forward and the cabs continue to be a problem. Tow trucks lie in wait and tow cars while bartenders and the servers who own them who work for tips and minimum wage, are still closing up after their shifts. Late night buses are overcrowded and then stop running while there are still people who would like to use them. There's no late night train service. Neighborhoods complain about cars parking in front of their homes on weekends or during festivals, but until drivers have some real options to take something other than their personal vehicle, those complaints are going to continue to come. Until recently many residents had no earthly idea what city options and incentives were available to them, like overnight parking or cab reimbursements. There's no reason for this. And left we forget we see nine pedestrian fatalities in six weeks due to drunk driving. We need to have productive discourse around this topic. Neither regulations that protect entrenched interests at all costs, nor those simply bought by new interests will yield a net improvement for the passenger riding public and for cultural tourism here in the the music capitol of the world. Today as you can see, public attention is focused on this issue. It's a great opportunity for city council to act and to create a new set of regulations and redefine transportation in our city. Clearly we'll need to address this problem on multiple fronts, including transparent, well publicized opportunities for civic engagement from the public, an eye towards behavioral change and appropriate coordination by a commission that is regularly able to make quorum. But we start here. It's time for the city of austin to leverage innovation, technology and growing public. I believe you each received approximately 500 letters from our constituents over the last 36 hours or so. To create a variety of safe options for residents and visitors alike to safely enjoy our night life economy and engine that is worth billions of dollars in cultural tourism and tens of thousands of jobs annually.

[10:29:11]

[Buzzer sounds] I urge you to vote yes on these resolutions today. Thank you.

>> La teef tahear.

>> Good afternoon. I am strongly in favor of having more options and for the people, and more options for the drivers. Currently the companies that we have are very bad with a minor

-- with a minor mistake or any excuse [indiscernible] and then they have no

-- no jobs not to drive anything. Personally, I have no job, I was [indiscernible] and so Carrierringconnect 57600

[10:31:54]

>> ... To support a family or merely earn a living wage. The unique location intended consequences is overall tax drivers will decline and rider and civilian cars less safe and a well established service industry will find it difficult to provide a living wage. I came to austin 23 years ago for family. I fell in love with this city because of the wonderful people who live here and the progressive spirit of the city that respects all people and strives to make a more livable community for all. It's been an honor to drive for yellow cab for over three years. In this time, I drove over 200,000-miles serving this great city. I have learned a lot about the taxi industry. While the system is not perfect, we need your help to help us work together to make a more perfect system. With your help, council, we can achieve a more perfect system and maintain austin's long-standing support of small local businesses and jobs for minorities that pay a living wage. I understand the challenges you face as community leaders. The austin service industry needs a council to oppose this legislation that will hearken the wal-martization of the local service industry and exacerbate the current issue. I truly believe this is an opportunity for austin to show its innovative support and to support over 1,000 small people who are independent contractor drivers. The majority of them are minority small business people. So please view this as a social justice issue, a living wage issue and an issue of supporting small local businesses. We drivers need the city council to address the real issues that hamper taxis in order to approve the system. We would love to work where you and there are several small changes that can be made that can make us much more effective.

[10:34:12]

[Buzzer alarming]

>> daniel, are you for or oogenies item 24 and 25? You signed up for? You are in favor.

>> I am

-- eviden tly from your testimony, you are not. [Laughter] so I am going to put you in the against column.

>> Yes, sir and charge off your time, your against to the

-- the 3 minutes to the against side and so for that within we have 3 more minutes on the for side and that's ed scogs.

>> Thank you. [Applause].

>> Mayor and council, thank you very much for this opportunity. I want to speak strongly in favor of these resolutions. I must say I became involved with a group atx street recently and very impressed with

the organic nature of this group. This is a grassroots organization, born unfortunately out of tragedy, which sometimes many movements are born out of tragedy, but the need there is real. This wasn't formed by consultants. They don't have handlers telling them what to do. This is an authentic group, and I think this is a need, though, that we felt needed to be addressed for many, many years. This past sxsw before the accident when I was down here, the massive waves of people walking around, and I thought there has got to be a way to move them around. There weren't enough cabs so people were mulling around even in the middle of the daytime. Some of the criticism that has been leveled at the group by saying, oh, by taking these steps, we are just going to encourage bad behavior or drunk driving, all they want are more options. Everyone wants more options, and the rule of a transportation system is to safely move people from one place to another, not judge them, so keep in mind that drunk drivers are indiscriminate in who they harm from the person doing the right thing, walking home at night instead of driving, to the bartender and the waitress who just worked until 2:00 a.M., To the cop working the traffic scene after an accident and even in my neighborhood, a few years ago, down at circle c, a deaf man walking on the sidewalk in the morning was killed by a teenager who had been partying all night long. I think that case is still in the process, but that's all people that want, this uber and lyft work in other cities and I am sure we can make it work here and it will satisfy everyone, so please pass the resolution. Thank you.

[10:37:03]

[Applause]

>> Mayor Leffingwell: We will go for those against, first is edward carbo and donating time is criss cole man. Joe garcia. James rodriguez. Sol man casa. Soleman casa here? You have up to 15 minutes.

>> Thank you, mayor and council members for your time this afternoon. I know you are all aware that a task force already exists discussing these agenda items. The task force has been in place and approved by the audit and finance committee of the city council and the city is paying staffers to be there. The task force has been meeting since january and it is a continuing conversation about a report on this subject that the city has already paid the transportation department staff to produce. We have been engaged since the beginning and partake in discussions about enhancing on demand transportation services for compensation in austin, also known as taxicab service. One out of every three requests for a taxi in the city of austin, specifically in our fleet, came through her very hail a cab apa. It is legal and I am sure the network companies which do the same thing couldn't also operate within the confines of existing city ordinance. What is the transportation network company or tnc? It is california's way to spell cab. All of the taxicab franchises in austin are transportation companies with a network of independent contractor drivers. We dispatch requests for on demand transportation service, connecting people who want to ride with people who are licensed, completely and properly insured and legally authorized to give a ride for compensation. Tncs are going to tell you they want to compete but what they mean is they want the rules changed to benefit their bottom line at the expense of their customers, both riders and passengers

-- and drivers, excuse me. Tncs will ask you to accept their top secret insurance. They don't report accidents to the city. They don't share their trip data. They don't provide wheelchair accessible service. You can watch the houston city council meeting where lyft was asked to respond to wheelchair

accessible fleet, they said they will call yellow cap. They don't want you to regulate the rates so they can manipulate prices. They do discriminate by not accessing the 44% of adults who don't have a smart phone or the 29% of americans who don't have the means of getting a credit card. Tnc they can provide insurance, provide safety fee and conduct background checks but when you actually read the terms of services, which we have copies available, they prove otherwise, this is words from the cofounder of lyft, and you see in their language, we cannot insure a driver or rider or who or she claims to be or a driver or rider will actually complete an arranged service. They also have been exposed by the media acting in a manner inconsistent with their words. Next slide.

[10:40:40]

>> San francisco uber is changing the way people are getting around town but how safe are their drivers.

>> It has been linked to several incidents including a 6 year old girl in san francisco, so what exactly are you signing up for when you get in an uber car? Investigator reporter looked at drivers for uber. These are regular people who use their own cars to give ride.

>> They are and working with investigative teams we found drivers across the country with criminal record, that includes burglary, domestic defense and even drug trafficking and that is even though uber says their rules are stricter than taxicabs and when an uber person is in an accident, we also discovered you can be left paying a bill.

>> They were on the move.

>> Pretty established company. About to go ipo. We expect them to have coverage when you are their customer.

>> Like services like uber are taking over the transportation industry. Download the uber app, click, and within minutes, a driver picks you up.

>> How easy was it to get a job at uber?

>> It all depends

-- you add your name and social security.

>> This man had been a uber driver for 9 days when jason herrera summoned him to the district in san francisco.

>> But within a mile, there was a right tree that smashed into the car badly injuring him and herrera.

>> I remember waking inside the actually ambulance that r.

>> They have been left for hospital since the personal insurance of them would not cover the accident and uber claims it is not their responsibility.

>> You buy a car, it comes with a warranty. You get sit in a cab and you think it's covered and I am in a uber car and there is question whether it will be covered if there is an accident.

>> According to a lawsuit his company denied liability because they exclude instances of profit. In other words, the driver's personal insurance was worthless. He needed commercial insurance.

[10:42:52]

>> Did you tell uber you only had personal insurance and not commercial insurance?

>> Yes, it is not like a professional job. It is like hiding. If anything happens, you hide yourself.

>> Uber says they carry one million dollars of liability coverage per incident which steps in as primary insurance if the driver's policy is not available for any reason, covering from the first dollar. And the beyond questionable insurance policies, we found uber's drivers with questionable pasts and customers who say they have been victimized. In november this passenger claimed driver whitemire was verbally abusive. He filed a police report and now the dae's office is -- the strict attorney's investigating. His records includes mandatory and domestic time in state prison and burglaries and uber says he passed a background check but we found he was also on probation at the time of this incident for a drunk charge, despite uber's policy of rejecting applicants with a criminal record within the past 7 years. And we found even more drivers around the country like this, in chicago, an operator operating without a driver's license got pulled over with this passenger in the backseat.

>> I would assume at least a background check is done.

>> This man also drove uber x in chicago despite five prior arrests and two disorderly conduct convictions. In los angeles, we asked beverly lock to test the system. The reformed felon goes online and applies to be a uber driver and he wrap sheet includes burglary, cocaine possession and threatening a person with death or bodily injury.

[10:44:53]

>> I pulled girl out of a car and almost beat her to death.

>> But for the job, for applying she gets the job with uber. This shows that uber has suspended drivers when things go wrong but say they are a technology company, not a transportation company and in an email told us drivers are, quote, licensees of our software. With uber, the rules are different.

>> It destroyed my life. It didn't change my life. This happened, and they denied me.

>> I think the government needs to do something about this.

>> Now, the california public utilities commission oversees wide services in the state. You can see requires commercial insurance, criminal background checks on drivers and vehicle inspections. To help cover those costs, just last week, uber announced it will build passengers in (indiscernible) and then we discovered late yesterday that the driver in the other car in herrera's accident was a relative of nbc's bay area employee. And we requested an interview with uber on phone and email but they denied multiple times our request.

>> This video highlights the differences between promises and proof. Tnc's promise that they do criminal background checks but here is the proof. Tnc's promise that they provide insurance but their terms of service, which you all have a copy of, prove that you are not covered. We love doing the things the right way. We expect to be held accountable and we don't shy away from answering the tough questions. Our insurance is on file with the city of austin because it is a real policy. We accept the real challenge of providing 24 service, 365, 24 hours, without restricting access or passing the burk and we take all parts of the city ordinance seriously. We work to serve the entire city of austin every citizen and visitor with 461 cars. Tncs will fight to have unlimited number of drivers because they don't care how much their drivers make. They only care about lining their pockets. I want someone to tell me why two companies that have raised a combined half a billion dollars -- yes, I said billion, and spend upwards of 6 figures weekly in marketing and pr can't afford to offer taxi service in austin in rules that already exist to protect the consumers and the drivers. My thought is, they

don't care about the consumer and the driver. As you can see in the terms of services here for uber, we will not assess the suitability, legality or ability of any third party transportation provider. They only care about their bottom line and making money for their one percent investors which is why they pay unsuspecting citizens 400 now dollars to advocate on their behalf so they can stuff their pockets with millions of dollars. As you can see this article here from chicago

-- from seattle. They will rush their product to the market without approval, some to cities they operate in and then claim to unsuspecting customers or claim to their unsuspecting customers that they are legal. If they don't like the rules you propose, they will deploy their deep pocketed resources to spam your inboxes

-- you are already experiencing that. They will employ every pr and local political operative to mislead consumers on their half. One of the ceos call operation rolling thunder. To reach the goal of destroying taxicab companies and to facilitate a race to the bottom in an industry that served as public utility. This doesn't exist quiet zone just to serve as ideal customers. This industry has a space carved out to serve everybody at all times. Be careful what you wish for. \$Drivers from east to west coast and areas in between suing them. There are hundreds of passengers that complain about their services, prime time gouging, and more daily. They will pay any expense and use all of the high powered connections to either write stories for the media or generate good coverage. When you spend that much money to highlight your good side, we have to ask

[10:49:27]

ourselves: What are you hiding. Any responsible journalist should start by investigating the mystery between lyft and uber's insurance policies, there is a tragic case involving the death of a 6 year old girl, sophia lu and her family being drailed through the courts by a tnc who claims 0 responsibility as they hide behind their terms of services and a system in california that allows them to operate without doing due diligence. This is not the standard you want for a company reaping profits by connecting strangers with strangers in your community. A transportation network company is a transportation company with a network of independent contractor drivers providing transportation services for compensation. No different from a cab company. I ask you not to lower your standards because of their financial influence, savvy pr and flashy mobile application. It takes so much more to run a cab company. Let's find a better way by combining the best of both but not by stripping away the rules we know are important to the protection of our community. They will attempt to paint a perfect picture but the nbc investigative report demonstrates that is not a reality. The resolution calls for report back to council in 90 days. But with even more alarming evidence coming to light daily, that is not sufficient time to thoroughly address the issue. The california public utility commission, whom tnc proponents are holding up as the example to follow will not conclude their report on tncs until near the end of the year. I recommend reporting back in 180 days, allowing enough time to review their findings as they may apply to this industry and the city of austin. We are all licensed, insured and legal drivers and all of their supporters, will you all please stand up? Thank you very much for your time.

[10:51:36]

[Applause].

>> Mayor Leffingwell: Abdu dickson. Abdoo dickson. And is damn yell woldesmaid here. Daniel, are you here?

>> [Indiscernible - no mic].

>> Mayor Leffingwell: Right. You are here, though. You are daniel

-- raise your hand if you are daniel.

>> Mayor Leffingwell: Got you in the back you have to 6 minutes.

>> Thank you, good afternoon city council, I am abdoo dickson and I am the member of the austin taxicab company. We are against this tnc program. It is premature to conduct the tnc pilot program when there is plenty of information about such transportation all over the country and the taxicab task force is working on solutions under the current administration to well regulated franchises, the very nature of the tnc is to avoid regulations and to avoid paying the city. To expect more of them may not be realistic is it difficult to restrict taxi drivers, hours and locations of work. For example, rush hour downtown. How will the tnc drivings be regulated or restricted. It is in next to impossible to identify them that I mean to will probably work wherever and whenever they choose. Peak hours, who is going to control when the peak hours are? No one? We ask the city council to propose the program and study long term effects on the tncs and how they affect our city and other cities around. Here in austin, we proud ourselves of trying to keep austin weird. In a situation of weird things to do would be to invest the our existing cab services. Thank you.

[10:53:50]

[Applause].

>> Mayor Leffingwell: Billy carter. And donating time to billy bettylou dabell, is bettylou here? I don't see here?

>> I don't either.

>> Mayor Leffingwell: You have 3 minutes.

>> My name is billy carter. I own carter transportation services. We run super shuttle, exec car and ten ten taxicab in round rock, pflugerville and city park. For the city council allowing these measures for allowing uber to operate because we need safe ride. Safe is the key word. We need safe options. The tnc are an apa that connects unsuspecting person who needs a ride where some random person who has unknown past. That's been proven. This is not the answer to our safety and transportation issues. The committee formed by the utc, in particular the tnc committee has had four called meetings and only two of those had quorum buzz the utc members weren't available for the meetings. We haven't had a chance to look at this in committee yet. It's hard to come up with resolutions when the -- we don't have quorum and we can't talk about it. There also has been nobody from any of the tncs that bothered to come to any of those meetings to offer suggestions. So I would just ask that we stay focused on the big picture. Find a solution to provide safe, reliable, and affordable transportation for the residents and visitors. Consider adding additional taxis or a different model of using the available permits. Perhaps a.M./ P.M. Permitting system. Encourage apa based companies but require they connect customers with permitted drivers and permitted companies. Uber black does that. There is currently 632 licensed limo, sedan and van permits issued to licensed operators who use licensed

professional drivers and carry city mandated insurance. Remove the 30-minute advance notice requirement on nontaxi services so that apps can utilize taxis, suvs, sedans and vans already permitted for that. Remove 55-dollar minimum for the taxi services so these companies can provide affordable options. Include transportation leaders in this process. Say yes to the apa but say no to the nonpermitted driver. I am really trying to keep focused on what is best for the city and not just what's best for our company. I am involved with all of the other transportation providers we get along. We have relationships around, and we know that most of us get the big picture and we want to see austin grow and survive. But I will make this point, because it's one that everybody in my industry is talking about. If you let the tncs come in and we operate with rules, regulations that ensure safe and good service. If the tncs come in and are allowed to operate without those requirements, most of the companies are just going to

-- [buzzer alarming]

-- pull their permits off and operate as a tnc. That's not what is best for austin. Please consider these.

[10:57:18]

>> Mayor Leffingwell: Thank you, billy. Thank you. Denise iceman? Denise iceman? I don't see denise. Hannah rittering. All right. We have a bunch of people locating time. Amadu ba. Raise your hand if you are out there, amadu. I don't see him. Leo morini.

>> Right here.

>> Mayor Leffingwell: Okay. Diaz amad. Diaz amaud. Not here. Lawrence manual, up to 9 minutes.

>> I am hannah rittering and owner contractor with yellow cab and my friend back there leo were the first two hybrid taxicabs in the city of austin and probably in the state of texas and those two cars have been on the road happily since 2007. Licensed and insured. There has been some mention of the terrible tragedy during sxsw. The tragedy had the only thing

-- the only thing that tragedy had to do with taxi service is the fact that that guys car ended his rampage by hitting a taxicab. The guy who was driving that cab, that car was not looking for a cab, was not trying to ride with anybody. Wasn't

-- couldn't

-- it wasn't because he couldn't find

-- he was driving the stolen car or whatever, so please don't blame us for that. Part of the problem.

-- [Applause] there are a number of problems with mobility. You know, we are not magic cars and we can't fly over the gridlock that happens downtown during events like sxsw. We can't service all of the calls that came in through our dispatch service from bars on sixth street, when sixth street was closed to traffic. But the people calling for the cab were too drunk to notice that, so then they complain to you, I couldn't get a cab on sixth street. Well, sixth street is closed. What are we supposed to do? Pull out our helicopter rotors and fly? You know, I thought it was interesting that so many disabled people came to speak in favor of these tncs because most disabled people I know can't afford to pay the prices that the tncs have been charging people. They can't afford to pay the prices most of the time for many of their cab ride, which is why they need the combined program with capital metro, which you, too, were not particularly sympathetic to when that came up a few years ago. Another issue is that a lot of people think that cab won't stop and pick me up. But most people actually don't know how to tell whether that

cab is actually available. Do you? Do you know? How to tell at a distance whether that cab has its meet around? Very simple. Two yellow lights on the top that go on when the meter is on are called tattle tails. And when the two yellow lights are on means I already have a customer, end of story, and if I am on an assigned trip or going to pick up one of my regular people, I drive by and I just wave at you through the window, sorry, I am not available. That doesn't mean I refuse to carry you. It means I am otherwise occupied. The apd will not enforce the vehicle for hire ordinance. They are happy to enforce the traffic laws on us, and so all of these vehicles, not just taxicabs, all of the limos which have unlimited number of permits they can acquire, the petty cabs, everybody else that is legal in this town only have three people to enforce, all of those different people. Thousands of people involved in the business. When I started driving here for american cab in 1987, that office had two people. And they only were charged with regulating about 440 taxicabs. And now it's thousands of vehicles

-- hundreds of vehicles, anyway, thousands of people, and we have increased by one person, the level of enforcement. There is a lot of talk about mandating hours. I have heard some people say that, mandating hours. I am self-employed. If you want to tell me what hours I have to work and whether I have to be out there in the morning or whatever, then I hope that you are prepared to pay half of my social security taxes, because I am an independent business owner and I pay all of that myself. And that reminds me of another issue. All of us who are licensed in this city have to pay the county every year add valorem tax

-- ad valorem tax. Are these tnc going to be paying with the private cars and the ad valorem on these vehicles because that's their commercial equipment? Probably not. There are so many issues that we could go into. We have

-- I had to laugh about the

-- the comments about how prompt uber is, because most of us cab drivers have had the experience during these big events of pulling up to hotels and having people get in our cabs and saying, god, I have been waiting forever for uber. The problem is, you cannot

-- I have to pay my mortgage every 12

-- all 12 months of the year. For some weird reason, wells fargo requires that. I don't know why. I can't tell wells fargo, well, I only want to pay it during the football acl, f1 season and march during sxsw. This to be lanced with our need

-- has to be balanced with our need as people, as citizens, to be able to support our families, pay our bills all year round. Because if you are in a rush to get a cab at the end of july when it's 105 and everybody is on vacation, you might actually call the cab company and complain that the cab company got there too fast. We do our best but I don't know why you expect us, as one industry, to somehow completely handle with no glitches a situation which would swamp los angeles, which would swamp new york city to have an event like sxsw has become. And we cannot

-- we cannot come up with a 24/7 365 solution for something that is not a 24/7 365 problem. Thank you.

[11:04:51]

[Applause].

>> Mayor Leffingwell: Sid white. Is sid white here?

>> Good afternoon. My name is sid white. I am the owner/operator of yellow cab 37. I have been driving

a taxicab since 1999. I have seen the city has almost doubled in size in that time. Austin has been continually one of the most fast growing cities in the country. We have expanded our taxicab fleet by, I don't know, a couple of hundred, I guess, but I haven't seen any expansion in cap metro. Where is cap metro at 2:00 o'clock on saturday or sun day morn manages? They are nowhere.

-- I live in southeast austin, I can't get from downtown to my house after 10:30 at night on cap metro. It takes a taxicab

-- if a taxicab loads downtown and takes someone to, say, circle c, parmer lane, cedar park, that's a 20-25 minute out to drop the folks back off and then you have 25-30 minutes back into town. That's one load and that might be as little as one person. Taxicabs, by definition are individual transportation systems. They are not designed to deal with masses of people. That's what cap metro is supposed to do. If cap metro were open late, shoveling people out into the neighborhoods, say, to the transit centers or the park and ride, then we could get 5 or 6 loads in an hour. That's the main point that would help us more than anything, if cap metro will expand their services into the wee hours of the morning. Thank you.

[11:07:08]

[Applause].

>> Mayor Leffingwell: Michael elder. Okay. Come on down. Donating time is joseph beers. Joseph beers is signed up, donating time to michael elder. You don't want to do that?

>> [Indiscernible - no mic].

>> Mayor Leffingwell: Well, I hear you. So you have up to 6 minutes with the donation time of joseph beers. This is the last speaker that we will hear.

>> I have copies if anybody wants them.

>> Mayor Leffingwell: Give them to council member riley and he will pass them down. If you want to ...

>> My name is michael elder. I am a computer professional, a former cab driver and a current user of public transportation buses and taxis. I love austin and I agree that austin's current transportation problem needs improvement. I have been aware of the problem for 30 years and I am glad city council is finally recognizing it. But with all due respect, in large part of the

-- a large part of the problem has been created and sustained by austin city council, both past and present. The two largest components of the public transportation system are buses and cabs. With regard to those, the city has very poor track record. One does not have to look very far back for examples. The capital metro bus system is barely adequate for those who use it within the city on a regular basis. The most recent changes have brought the new articulating buses online also resulted in an overall degradation of customer service and of rider inconvenience. The problems with the cabs -- city taxicab service only happens because the city of austin allows it. With the current design, the cab companies are not transportation businesses. They are but rather car leasing business. Cab drivers want to provide good customer service but they are a captive audience with low power to hold the cab companies accountable for those with time and gas and they don't hold them accountable and they cannot. With other pilot programs, the most recent one related to transportation is a 6 month program testing electric golf cabs. The program was not operated according to its design but implemented any way without further review. On the other side of that, a request by taxi drivers association of austin for

a pilot program to allow drivers to lease cab permits directly from the city has been denied repeatedly. This will allow drivers to hold cab companies accountable for baddies patch service and in turns for cab companies to improve service, where regards to the current proposal before the council regarding tncs, I do not see this beneficial to austin overall. Tncs will only service those with credit cards and smart phones. Tncs will not provide service to lower income areas for many disabled and wheelchair bound customers, nor for those who make short routine trips, for example, to the grocery store. Tncings will not service those customers but will have the potential to devastate the ranks of cab drivers that do by surfing enough prime business to squeeze them out of the market. With all due respect, why are you proposing a pilot to allow tncs to operate but not allowing a pilot for cab drivers to lease permits directly from the city? As it occurs to me, the priority should be to clean up our current public transportation problems before adding new components to the mix. The latter would be a step in the right direction as it can improve the cab service system already here and it is noted that the city council has a working committee to look at how and where the tncs can work in the austin public transportation, and with a report by the recommendation committees due out early summer, for some typically a slow season for public transportation, there is no urgent need to pass this measure before the committee has concluded its work. My personal view is that there is

-- that is there is going to be a pilot program allowing tncs to operate. The first logical step will require tncs to work with licensed cab drivers already here. Cab drivers could be allowed to register with only one tnc each and would not be allowed to stack trains between cab company dispatch and the tnc. Cab companies would be required to allow this. Potentially a pilot program of this design could determine if the root cause of the problem is due to insufficient number cabs or by cab company dispatch service. Only after that pilot has been concluded, should a pilot program to allow tncs to work with noncommercial vehicle drivers be considered and then only if it's deemed to be in the best interest of the greater community at large. In any event, should tncs be allowed to operate in austin, these companies and the drivers who work with them should be required to obey all vehicle for hire regulations, for austin to allow tncs to operate within the city without regard to the current vehicle for hire regulations would be irresponsible. These are my arguments against the pilot program resolution and I thank you for your time.

[11:12:52]

[Applause].

>> Tovo: Mayor.

>> Mayor Leffingwell: Council member tovo.

>> Tovo: I have a question for you, sir. Can you explain what you mean by "stacking trips between cab company dispatch and the tnc"?

>> The way it's run right now, the cab company gets the calls

-- excuse me, can you say that question again?

>> Tovo: Sure. Sure, I jumped right into it. But towards the end of your representation, you talked about if there is a pilot program allowing tncs to operate, the first logical step who would be to require them to hire registered cab drivers and then you went on toe say cab drivers would be allowed to register with one and not allowed to stack trips company cab company dispatches

--

>> mean they would have to take the trip from the cab company or the text. They cannot take -- one with the tnc, not having each. Basically stacking is one trip you are on and you take another trip and you aren't available to service that.

>> Tovo: I see, thank you.

>> This is one thing I am looking at and this is one aspect. You see this is one part of the problem but there is a lot of problems in the current austin public transportation that needs to be addressed. Buses are a big issue, too.

>> Tovo: Thank you very much for explaining that. I appreciate it.

>> Thank you. [Applause].

>> Mayor Leffingwell: That's 45 minutes for both sides, so that's all of the speakers that we will hear from today and we will take motions on these two resolutions separately. Any discussion? Council member riley.

>> Riley: I would like to start off by thanking everybody who has come out share their thoughts today, those currently providing transportation services in austin and those who have been working to see more transportation services provided in austin. I also want to thank awe of those who have chimed in online and otherwise, there are a lot of people who have spoken up on this issue and I appreciate all of the input. I understand the concerns because the transportation

-- ground transportation has been an issue for many for some time. We have noun that since at least 2011, when we hired dr. Ray mundy to do a study on taxi and ground transportation services in austin. His report is right there still online on the city's website, and if you look on page 76, there is a good summary of what he and his team found. What he found was that the primary service problem faced by our three current taxicab franchises is the inability to provide weekend and evening service and the special capacity during special times in event. As industry reports and survey, it was next to impossible to obtain taxi service within a reasonable time frame, if at all. That is consistent with a lot of input we have been getting from austin citizens for some time now. People are very frustrated at their inability to get taxicabs, especially during the peak periods. This has been a real problem for many and many have chimed in and said they wished cap metro were providing more service. I will be the first to join them in wishing there was more service in cap metro but I think it is only fair to note that cap metro has been stepping up and making progress on providing late night transportation options, and gary, if you could show the

-- I want to share one slide in relation to cap metro's effort in this regard. Just for contrast, there aren't in u.S. Cities that provide late night transit service. Austin is among those that are now leaders in that. Our regular bus service does end between 11:00 p.M. And 12 midnight but then starting back in 2002, we started the

-- over on the left-hand side is where we are, following 2002, we started running the e-bus and it was in cooperation with the university of north texas and apd in response to a pattern of drunk driving we were seeing in the students. We launched that in 2002 and started making adjustments based on where we saw the students were wanting to go. You saw how quickly the service grew and widely embraced and 2003, we also launched a night owl service which developed appeal to third shift and night employees downtown and the night owl service monday through saturday from 12 midnight to 3:00 a.M. Which is a lot more than most u.S. Cities. The years after 2003, cap metro added three more night

owls, one additional e-bus, you see the growth thereby 2011, the first big bar there on the right. The growth in the e-bus serving the university and there is a lot of growth in the night owl service, especially the fall of 2012, we shifted the frequency

-- originally that night owl service was only three routes, running at 60 minute 60 intervals, and cap metro saw a need for that and responded by adding three additional night owl route and additional e-bus rule and then in 2012 shifted to 30 minute intervals, doubling the frequency for community riders and the blue segment in the bar is the growth in the night owl and the red is the rail service we started running, now it currently runs up to 12:30 friday nights and midnight on saturday nights and that's continued to grow, and then over there on the last bar, you can't really see it, but it's the very faint beige bar, that is the metro rapid service which now

-- the last metro a mid bus leaves at 9 weeknights and saturdays and many are served on evenings and late night. That is no the end of the story but I want people to be aware. Cap metro has been stepping up and responding to the issues out there and I hope to see additional growth and getting additional input on that is helpful because we absolutely have to provide transportation options. This alone is not going to be enough. We know there are a lot of people who want to see more options, and including -- one option that emerged in other cities around the country is transportation network companies, and that really is based on the use of the smart phone to connect with others who have cars. There are a lot of very difficult issues to work through in

-- before we can just open the gate and start allowing that without any regulation at all. I completely agree that we

-- our vision ought to be that all providers providing services like that are licensed, insured and legal, and it is no easy fee to get to that point. There is some confusion that the resolution before us today would open the flood gates and they would be out there operating without any regulation. That is not what this resolution does. All this resolution does is get stakeholder process going, that would include those who want to operate tnc, transportation network companies, those who want to use them, current taxicab companies, taxicab drivers, all of the stakeholders who are interested in this sort of service that would

-- and the idea is we would get everybody around the table and see if we can work through all of these very difficult issues, and that includes issues like how

-- what we are going to do about insuring that there is insurance available, that we have careful screening of drivers, that we address the ada concerns that mr. Witty raised, and I absolutely agree that adapt is an important stakeholder in any transportation issues and they should be right there at the table as we figure these things out, but

-- and other cities have been ressalting with the same issues here today and

-- rustling with these issues here and it is a big problem and it will take a concerted effort on all of the stakeholders to figure something out but as people around the country are working on new and innosaytive approach in austin, austin ought to be the city on the forefront, embracing technology and the industry and seeing what we can do to apply the tools for our transportation needs in austin. It may be that tnc served principally a peak demand function, so during those special events and weekend nights, maybe that's the time when

-- when tncs are really out there helping us meet that peak demand that taxicabs haven't been able to meet. I don't know what the answer is. I do think that there are solutions that are out there and that our

transportation future is likely to involve some use of smart phones, related technologies to help meet our transportation needs, and I

-- the only way we are going to figure out all of those problems and get to workable solutions is by sitting around the table and working through the issues, and so for that reason, I strongly support the resolution that's before you, item 24. I have passed out an amendment based on our conversation at the work session on tuesday, just to acknowledge that there are difficult issues to work through. It just means adding a whereas paragraph, one more whereas paragraph, saying whereas a variety of issues need to be addressed in order for tncs to operate safely and equitably within austin's transportation network including not limited to, insurance requirements ada accessibility, driver qualification and vehicle inspections. Yes, those are real and serious issues that we are going to have to work through. I am hopeful we will be able to find workable solutions to all of those with the help of everyone involved, including folks here in this room today. And so on that basis, I will move approval with the amendment I just outlined.

[11:22:37]

>> Mayor Leffingwell: Motion to approve item 24 by council member riley. Second by council member martinez, and that is with the addition

-- additional whereas. I would like to offer hopefully a friendly amendment. If it's not, I would like to offer it to be voted on, and that would be add to the be it resolved paragraph, after

-- let's see, after the next to the last sentence which ends to operate legally add this sentence, the stakeholder group is to be instructed that whatever recommendations are brought to couple regarding tncs must include equivalent provisions for city of austin taxi companies and, also, in the next sentence change the 90 days to 180 days to allow adequate time to

-- this is going to be a very complex issue. I want to say that I completely agree that we need additional public transportation in our city. I think that's been demonstrated time and time again. We need additional public transportation options. And I am all in favor of that. What this is

-- my problem is, I want to make sure that we do it in a fair way, and I think if we treat one set of public transportation operators

-- for example, our franchise taxicab companies and drivers differently from the way we treat another people who are

-- another group of people and companies who are providing essentially the same service, I don't think that's fair. So what I would like to see happen

-- [applause].

>> Mayor Leffingwell: I think there is a lot of value in exploring it and I think we can come up with the solution at the end of the time, but I don't think in 90 days, that that's entirely adequate, so I would like to offer that. [Applause].

>> Riley: Mayor, could you repeat the first part of the word "equivalent"?

[11:24:40]

>> Mayor Leffingwell: The stakeholder group is to be instructed that whatever recommendations were

brought to the council regarding tncs must include equivalent provisions for the city of austin taxi companies. In other words, whatever requirements are asked of taxi companies would also be asked of tncs.

>> Riley: If I may, mayor.

>> Mayor Leffingwell: Yes, go ahead.

>> Riley: I absolutely agree that we have to consider the regulations for taxis as we consider the regulations for

-- for tncs. I am not sure the solution is to take the exact same regulations that apply to one and apply those exact same regulations to the other.

>> Mayor Leffingwell: I said "equivalent."

>> Riley: It is a difficult issue to work through and both

-- we have

-- what we are talking about is having one stakeholder group figuring out taxis and one stakeholder group that is working on tncs and I

-- I am concerned that it would just be

-- it would create

-- it would inject an additional element of confusion to the process, to have the work of one spilling over into the work of the other so I can't accept that as friendly.

>> Mayor Leffingwell: I would

--

>> Riley: Certainly, the point

--

>> Mayor Leffingwell: I don't want to argue. That is not my intent to create two different stakeholder groups.

>> Riley: Item 24 relates to tncs, item 25, relates to taxis, each of those resolutions sets up stakeholder working group. I am not sure what you are referring to.

>> Mayor Leffingwell: You don't accept that as friendly?

>> That's right.

>> Mayor Leffingwell: I would like to offer it as an amendment. Seconded by council member morrison. Any discussion on the amendment? Council member spelman?

>> Spelman: You don't have that written down, do you?

>> Mayor Leffingwell: Yes, I do.

>> Spelman: You do?

>> Mayor Leffingwell: Yes. [Laughter].

>> Tovo: Something for discussion?

>> Mayor Leffingwell: Go ahead.

>> Tovo: I agree with the point you made. It needs to be an equitable set of recommendations that go forward. [Applause] and also timing is really critical and I notice the

-- let me make the point we have two stakeholder groups meeting right now, one on taxicabs

-- on the taxicab franchises and one on tncs, and this is probably not the time to address that, though I would like to when we come back to the main motion, but the second recommendation

-- the second resolution here talks about 120 days and this would be talks about 90, so I think it's

entirely appropriate to allow adequate time. I think 180 days does that. I would suggest when it comes time for the taxicab franchise, we might want to adjust that one as well so it's consistent and even how they have been written, there is already overlap in your "be it further resolved" in number 25, so I am supportive of this amendment.

[11:27:28]

>> Mayor Leffingwell: Council member morrison.

>> Yes, I want to speak to the second of your motion and there are elements. One is it's important to look at equivalent provisions. It doesn't mean it necessarily has to be a part of what we don't, if we don't adopt anything, so I don't know why it would hurt to keep that equivalence in mind and secondly, this as, noted by council member spelman, this has been rustled with all over the nation. I think it is completely unrealistic for somebody to come up with city of austin with resolutionlution in the next 90 days and if our group comes up with something in sooner than 180 days, I am sure we would welcome a report early, so I think they need to have the time to do the job right.

>> Mayor Leffingwell: Yes, it's within

-- [applause]

>> Cole: Mayor.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: I have a question about your amendment. What do you mean by "equivalent provisions"? I don't know what we are disagreeing about?

>> Mayor Leffingwell: What it means if you are operating as a taxicab, whether you are yellow cab or tnc you have to basically have the same requirements for regulation, for reliability, for public responsibility, those kinds of things and make sure that everyone is playing by the same rules. [Applause].

>> Cole: Well, I certainly support the idea that the regulations with respect to the taxicab and the transportation network companies need to be considered together. I am not sure that a cookie cutter approach is necessarily what has to come out of the stakeholder proceeding

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[11:29:28]

>> Mayor Leffingwell: I am not suggesting that.

>> Cole: And I didn't think you were suggesting that. I think you are suggesting that the stakeholder group be instructed that the recommendations are consistent with the needs of both industries, or something like that.

>> Mayor Leffingwell: That's why I used the word "equivalent" instead of "the same."

>> Spelman: Mayor.

>> Mayor Leffingwell: Council member spelman.

>> Spelman: Let me follow along pro tem cole's point. I understand what you mean when you say equivalent doesn't mean the same. But I am not sure the right way to parse that. 180 days from now or next 180 days we are going to be dispatching a group of people to figure out what did the mayor mean when he said equivalent and how is equivalent not the same as the same. [Applause] and it seems like it

might be better

-- don't applaud. You probably are not on my side on this. [Applause]. [Laughter].

>> And if I may suggest the alteration, instead of equivalent say equitably put into can account the already stringent requirements of taxicab companies and so we look at taxicab companies and we know what is required of them and we keep that in mind when we determine what kind of requirements we will be making of tncs but it wouldn't necessarily be a one to one correspondence between everything that taxicab is going to be required of, something equivalent in a very similar way and argue what is going to be equivalent to be required in the tnc and terminates wouldn't be considered tncs because they don't have terminals.

>> Mayor Leffingwell: Say that language again.

>> Spelman: Equitably take into account the already stringent regulations required of taxicab companies.

>> Mayor Leffingwell: All right. I will revise my proposed amendment to reflect that language. [Applause].

[11:31:29]

>> Spelman: I will vote for it in that case.

>> Riley: And mayor.

>> Mayor Leffingwell: You accept it, too. [One moment, please, for change in captioners]

>> not the recommendation, but the status report.

>> Progress report and any preliminary recommendations. So if there are some recommendations, then that would be great to get those.

>> Mayor Leffingwell: Still 1 days.

>> Riley: With the progress report and any preliminary recommendations at 90 days. If we had that that would be friendly. Mayor so you're proposing

-- why don't you propose that as a friendly amendment to your original motion.

>> Riley: I'll be glad to do that. Instead of saying 180 days, but ask for a progress report with any preliminary recommendations at 90 days.

>> Mayor Leffingwell: Okay. Councilmember martinez? Okay. We have a modified original motion with an agreed to friendly amendment. And with that

-- councilmember tovo?

[11:33:33]

>> Tovo: Mayor, I distributed an amendment, a proposed amendment for item 24 that I would like to discuss.

>> Mayor Leffingwell: Okay.

>> Tovo: So

--

>> Mayor Leffingwell: Excuse me, councilmember morrison?

>> Morrison: I'm sorry to interrupt. I have to be somewhere at 5:45. So I just wonder if we're going to go

over the 5:30 because we also have number 25 also.

>> Mayor Leffingwell: That's an excellent point. Why don't we just lay this on the table until after our break because we do have item 25 to go also, which is related. We're definitely not going to get to that. So without objection, this item is laid on the table and we're in recess until approximately 6:45 or later.

[11:39:42]

>> Good afternoon, every. Every thursday a at city hall at city council meetings it is time for live music and proclamations and it is my honor to present kimberly dunn this evening and we'll say a few words after she sings.

[music playing]

[11:43:23]

[applause].

>> Thank you!

>> Martinez: Excellent job. So introduce the other half of your duet.

>> Yes. This is scott wilson, trustee guitar player, singer.

>> So tell us a little about yourself, where we can find your music and where your next gig is.

>> Absolutely. You can find all of my music and everything about me on my website, kimberlydunnmusic.Com. And all of my social media things are there like twitter, instagram and facebook. And our next gig will be tomorrow playing in conroe. And on saturday we'll be in sweetwater and then our next show will be at the rattle inn.

>> I have a proclamation I would like to read to you. It reads be it known that whereas the city of austin, texas is blessed with many creative musicians whose talents extend to virtually every musical genre and whereas the music scene thrives just austin audiences support good music from favorites and newcomers alike and whereas we're pleased to showcase and short our local artists. I.,

>> Mayor Leffingwell: Mayor, here by proclaim may 15 as kim biler dunn day in austin, texas.

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[11:46:00]

>> Mayor Leffingwell: So it's time to honor our first responders, our emt's, medical emergency folks who do such a good job and important job for people of austin and travis county everyday. We know they work hard and they deserve all of the honor that we can give them. So tonight we have a proclamation which reads be it known that whereas emergency medical services are a vital public service provided by e.M.S. Teams, ready to provide life saving care to those who need 24 hours a day, seven days a week, and whereas access to quality emergency care dramatically 8th proves the survival and recovery rate of those who experience sudden illness or injury. And whereas the e.M.S. System consists of emergency physicians, nurses and medical technicians, paramedics, firefighters, first responders, educators, administrators and others and whereas we're pleased to recognize the members of emergency medical service teams, whether career or volunteer, for their specialized training and for the valuable services

they provide to our citizens. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim may 18th through the 24th 2014 as emergency medical services week in austin. So congratulations, guys. Great job. [Applause]. I want to call on the leader of the austin travis county group, ernie rodriguez. Chief?

>> Mayor, thank you so much. I'm here representing all of the staff of austin travis county e.M.S. They'd be here, but they're out there making calls right now. So we have probably some of the best medics in the world. I'm so proud of 'em. And I know the mayor is too because any opportunity he has he thanks us. He's always behind us. I would like to thank the mayor and the members of the city council and our city management team and all of the community that supports us each and everyday. We couldn't do this job without you. There's no way that we would be successful if it wasn't for you that had our backs. So when you need us we got yours. Thank y'all so much.

[11:48:21]

[Applause]. So of course we know here in austin every week is public works week, but today it's especially public works week and I want to honor our folks who work for the city of austin everyday to make fewer potholes in our streets, make our streets and roads safer. And we have here today the director of the public works department, howard lazarus. First I want to read a proclamation in their honor. Be it known that whereas public works services provided in our community are an integral part of our citizens' everyday lives and whereas the support of an understanding and informed citizenry is vital to efficient operation of public works systems and programs such as water, sewer, streets and highways and public buildings, and whereas the quality and effectiveness of these facilities as well as their planning, design and construction are vitally dependent upon the efforts and skill of public works officials. And whereas the efficiency of the qualified and dedicated personnel who staff public works department contribute to our quality of life through their positive attitudes and understanding the work they perform. And whereas we're pleased to recognize the contributions that public works officials make everyday to our health, safety, comfort and quality of life. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim may 18th through the 24th, 2014 as national public works week in austin. Howard, would you like to say just a couple of words?

[11:51:08]

[Applause].

>> Thank you, mayor. And on behalf of really the extended public works family I want to thank mayor and council and the city of austin for all the support they give us. The extended works family includes not just the public works department, but austin water, austin energy, austin transportation, austin resource recovery, watershed protection, parks and recreation, building services and fleet services. On behalf of all those people who support the the quality of life that we enjoy and the economic prosperity that we also enjoy, I want to thank them for their efforts. This year in particular I want to call out that all of the public workers and public service entities have stood shoulder to shoulder with our public safety brethren during some recent severe weather events. And those are the people who are working sort of without great acknowledgment, are the ones who keep us safe, keep our water running, keep our

electricity on and make sure that even when the weather is hostile we're safe and secure. So for the entire public works family in the city of austin, I want to thank you for all you do. Appeared this year in particular as we bring to closure many long-standing public works projects, say you've done a job very, very well and you're an important part who austin is and who we hope to be. So thank you.

[11:53:32]

>> Mayor Leffingwell: National mental health awareness month. As we know here in the city of austin mental health care has been one of our great unmet needs for a long time, but we've made such great strides recently with central health opening the new emergency psychiatric care facility at brackenridge hospital and making other great strides with other groups around the city to improve the treatment, protection and help that is available to folks who might have mental illness. So this is something that many people in our city are touched by. In fact, I would venture to say that virtually all of us either know someone or have a relative that's been affected by this very serious disease. So I have a proclamation to read. Be it known that whereas one in four adults experiences mental health problems in any given year and such problems can contribute to the onset of mental illness and whereas one half of chronic mental illness begins by the age of 14 and three-quarters by the age of 24. However, long delays, sometimes decades, often occur 29 the time symptoms appear and when people get help. And whereas early identification and treatment can make a profound difference and successful management of mental illness and recovery. It is important to learn the symptoms of mental illness in order to get help when needed and whereas symptom can make a difference in helping end the silence, end the stigma that's surrounded mental illness and discourage people from getting help. The special month focuses on increasing public understanding of mental health and providing identification and treatment of mental illnesses. So now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim may 2014 as national mental illness awareness month in austin. Congratulations, guys.

[11:55:43]

[Applause]. Did you want to say a couple of words?

>> Thank you for recognizing the importance of mental illness awareness month. When I'm giving community presentations I often invite people to close their eyes and imagine what the face of mental illness looks like. More often than that the images that people share are the faces of people who are confused, disheveled, one clean and often times frightening. And yet the national institute of mental health estimates that one in four americans have a mental illness. If the numbers are one in four, the reality is this, the face of mental illness looks a lot like each of us. This fact was made painfully real to me three years ago when my 19-year-old daughter was admitted to a mental health hospital. At that time our family did what families and individuals often do in this case. We retreated in isolation, stigmatized by the misconception that mental illnesses are somehow a reflection of personal weakness, of a defect in character or poor upbringing. Thanks to nami austin, we learned that mental illnesses are like physical illnesses. That the right treatment can lead to recovery and that early intervention leads to better outcomes. While it is really very helpful to have a month devoted to bringing awareness to the mental health disorders that affect one in four americans, we know, mayor leffingwell, that you join us

in recognizing that mental illness affects the lives of thousands of austin area families and individuals each and everyday. Nami austin stands on the forefront of providing the community with no cost a classes, support groups and presentations when help austinites gain a better understanding of mental illness. Education helps end the stigma that keeps individuals and families from accessing the support and care they need so that they in turn can actively and productively participate in and contribute to this community. We're on a mission to create a community that understands that mental health matters. Thank you for supporting our work.

[11:58:06]

[Applause].

>> Mayor Leffingwell: It is the salvation army's 125th birthday. They've been around a very long time and they've performed a vital and selfless service for people not only in our community, but around the world in situations where they need help from somebody who can't exactly help themselves. Whenever there's a fire or some kind of tragedy, fire or flood, the salvation army is there. I know my dad, who was a first responder here in austin, he was a firefighter, used to speak highly of the salvation army. He said he really looked forward to after that kind of situation where everything -- they were tired, they were hungry, they had just got out of what amounted to a life-threatening situation for a lot of folks. The salvation army was there with that sandwich and that hot cup of coffee. So he appreciated it then, I appreciate it now and I want to recognize that with this proclamation. Be it known that whereas for 125 years the salvation army has been doing the most good to serve the community, individuals and families in the austin area and whereas the austin area command serves travis and williamson counties through their core community center, austin shelter for women and children, red shield lodge and the new williamson county service center, four family stores and the adult rehabilitation center, and whereas the salvation army social services range from providing food for the hungry, relief for disaster victims, assistance for the disabled, outreach to the ill and elderly, clothing and shelter to the homeless and opportunities for underprivileged children. And whereas we're pleased to recognize the salvation army on its 125th anniversary and to acknowledge the many volunteers and donors who have enabled this organization to serve our community for so long. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim may 11th through the 17th 2014 as national salvation army week in austin. Congratulations, guys.

[12:01:22]

[Applause].

>> Thank you, mayor leffingwell and city councilmembers. Yesterday and this week has been salvation army week, national salvation army week, this gives us a great opportunity to thank our volunteers. We have many throughout the city, travis and williamson county. And it gives us also opportunity to thank our donors. I have with me today freddie with us today, advisory board member, great supporter of the salvation army. And I would say there are many people in this room even as I speak today who are supporters of the salvation army. I came to austin in 1968 as a young lieutenant as I was so green I was scared of my own shadow starting out as an officer in the salvation army, but I believed in the ministry

of the salvation army and the mission of the salvation army. It was my goal in life to help the lonely, help the lost and help the marginalized. And so for the last 45 years of the 125 years, I have served in various parts of the country in the salvation army meeting human need at the point of need as our mission statement says. So again today we just want to thank particularly, mayor, the city of austin for your support throughout the years, many years, you have supported us, the city of austin. And we thank you for that because the salvation army could not do what we do without the citizens and the supporters here in austin. So we just take our hat off to you and salute you and say thank you in a big way. God bless you in all that you do. Thank you again, mayor.

[12:03:26]

[Applause].

>> Mayor Leffingwell: It's my pleasure tonight to honor another one of our great nonprofit organizations that provide social services to those in our community who are always in need and especially with kelly white, who I've known for many years now. She's been involved in this business for, what, at least 30 years now. I shouldn't have said that, should i? [Laughter] I kind of stepped on it there. But she has been involved in the nonprofit groups here in austin, has done a fantastic job. I know a few years ago you left us for awhile, went to chicago, but came back here. I think so much of you and your husband bill for the contributions you've made to our community, but especially what you do for children here in austin. This is about the austin children's shelter 30th anniversary. So I'm going to read this proclamation. Effective solution be it known that whereas the city is pleased to congratulate austin children's shelter as they celebrate 30 years of efforts to end child abuse here this month. And whereas in 2009 acs added long-term residential accommodations and services for teen parents and for young people preparing for independent living. And whereas acs recently added a series of community-based programs intended to prevent child abuse and keep children safe in their homes. They are also providing training and support for foster families as they care for children who have been abused and neglected. And whereas acs's strong start and care academy programs provide affordable and therapeutic child care and parent education and coach and home visitation services to families under stress. And whereas as a reflection of their expanded program offerings, austin children's shelter is changing its name to austin's children services. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim may 16th, 2014 as austin children's services day in austin. Congratulations to you and kelly would like to say just a few words.

[12:07:00]

>> Yes. I've been doing this way too long. That would be the message. Thank you. And on behalf of all of the staff and board and volunteers and most importantly the kids that have benefited from our services for 30 years, I do want to say a very special thank you to the city of austin, to the mayor and to the city council. This is an enormous honor and we're very, very appreciative of this proclamation. We have been in business for 30 years and our business has always been about ending child abuse are. And we will continue to work toward ending child abuse. We have changed our name to be austin children's services because we've expanded our

-- the reach of our services and have very much began to focus on intervention after the fact, and the shelter and the residential components. We also now address child abuse prevention in a pretty major way in this community. Our goal is that no child ever has to be sent to a shelter because they have been so severely abused or neglected. And we're working toward that goal. We've done it for 30 years and will continue for the next 100, like the salvation army. [Laughter] thank you so much. [Applause].

[12:09:30]

>> Martinez: All right. It's my privilege to present a proclamation for the aids candlelight memorial, if those folks would come forward, please. Welcome, eric. It's my privilege to present this proclamation. Austin's 15th annual aids candlelight memorial service will be held this saturday, may the 18th from 7:30 to 8:30

-- sunday, sorry. Because I plan on being there, I should know that. And I look forward to being there again. It will be 7:30 to 8:30 at republic square park. This year's theme was selected by the global network of people living with hiv and the theme is let's keep the light on hiv. If you haven't noticed, out in the atrium there's a beautiful red ribbon that also commemorates this occasion as well. So we will be gathering to honor those who have lost their lives to hiv and aids and recognize and thank the many volunteers, community members, health professionals and scientists who are working together on hiv prevention. This gathering is to commemorate that struggle, reduce stigma and highlight the necessity for preinvestigation vince efforts as we continue to search for a cure for hiv and aids. Our city has established that the number of residents in the austin travis county area living with hiv increased more than 40% since 2006. And here at the city of austin our health and human services department is working tirelessly through the hiv prevention program to continue education on how to prevent aids by practicing safe sex and getting tested regularly as part of routine health care. The city has several initiatives to assist with prevention efforts, including the rbj health center clinic, along with other locations in austin, providing low cost hiv testing. So we know there's a lot of work to do. These folks behind us are doing some of that great work. We would like to thank the organizer of the candlelight memorial service. Eric is always there to invite me and lead the service. I want to thank him for his efforts and all the other volunteers. I'll read this proclamation and then whoever would like to come up and say a few words we will welcome you up. The proclamation reads, be it known that whereas the international aids conditional light memorial is organized by the global network of people living with hiv to honor those affected by the aids pandemic as well as to break down barriers of stigma and discrimination and give hope to new generations and whereas with the theme let's keep the light on hiv, this service is one of the 1200 memorials in 115 countries to raise social consciousness about hiv and whereas this observance provides an opportunity to recognize and thank the many volunteers, community members, health professionals and scientists who are working to find a safe and effective preventive hiv vaccine. And whereas almost 5,200 austinites are living with hiv and aids, but about one in five are not aware of their status. Make a difference, get tested. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do hereby PROCLAIM MAY 18th, 2014 as the 31st international and the 15th annual austin, texas aids candlelight memorial service. Congratulations and thank you all.

[12:12:53]

[Applause].

>> I would like to introduce some of the people up here. Anne Childs from Results. I did Katy Parker. I have Reid Jackson from AIDS Services of Austin. I have Victor Martinez from the HIV Planning Down, he's the chair. I have Roger Timmy here with the Care Communities. I have Carlos Database Diaz from the Care Program that stands for community education AIDS and resources, staff of Travis County Health and Human Services. And last but not least our featured speaker, Texas A&M My Schroeder. We would like to invite definitely Mike, who will be there, as well as the city council, all of you and the community to come out to the AIDS Candlelight Memorial. It's from 7:30 to 8:30 this Sunday. We will have AIDS quilts, speakers, music, tributes, remembrances, prayers and free community literature. We'll also have red ribbons out there to give away as well as candles. We also have testing through the Austin-Travis County Health and Human Services a block away from the park that day on Sunday from 4:00 p.m. to 9:30 p.m., free and confidential to anybody that would like to come and get tested. Knowing your status makes all the difference. The time is again 4:00 to 9:30 and it will be on the street located at Lavaca and Fourth Street. What we strive for in this candlelight is to reduce the stigma, ensure access, increase resources and promote involvement. And I think that's what we're going to be doing. We are also honoring those who have passed and currently are living with this chronic illness. We encourage everyone to attend, come out and get tested and I would like to turn this over briefly for just a brief statement to Tammy Schroeder who can give a personal reference about this. Thank you.

[12:15:07]

>> Thank you. Thank you, Eric. She's so wonderful. Again, my name is Tammy Schroeder, and I'm honored to have been asked to speak at the 2014 International AIDS Candlelight Memorial. I believe I was asked to speak at this occasion because in 1995 I lost my brother to AIDS. And it's been a lifelong ambition of mine to do something meaningful to end this playing. And I will be sharing that the story my family went through as we cared for my brother in the final days and also sharing why three words mean a lot to me: Care, commitment and constant. And I hope that those words will mean something to those that can attend and I also am so excited because at this memorial service Dr. Dave Barstow, the head of Impact Africa, and I, will be revealing something significant that's going to happen at the state department in Washington, D.C. That I believe will forever more change the face of AIDS in the world. And I'm very excited about that and I want to wait until that evening to share that because it's really monumental. So thank you for the time, thank you, Eric. And this wonderful team. And I'm so pleased to be a part of this. Thank you. [Applause].

[12:18:04]

>> Martinez: It is equally an honor to present the next proclamation. This is to announce the Special Olympics Texas, which will be celebrating its 45th anniversary this year right here in Austin, Texas. We're lucky to have this amazing event here in our city, the state's capital, which holds more than 300 competitors annually in our area on area, regional and state levels. The mission of the Special Olympics is to provide rear round sports training in athletic competition in a variety of Olympic type sports for

different abled children and adults in order to support physical fit fitness, demonstrate courage, experience joy and participate in the sharing of gifts, skills and friendships with families and other athletes in community. These events will be happening this june 6th and 7th and I want to thank all the folks who put on special olympics and congratulate them on their 45th anniversary. In addition to that we're also here tonight to give recognition to some recent efforts by a local ad firm here in austin, latin works, which is the second largest ad firm in our city. Latin works partnered with the special olympics texas for a new campaign called we see abilities. The gain was created to create awareness of the games amongst the hispanic community and engage new participants in this great event. Right now only seven percent of eligible athletes actually compete with fewer than two percent of them being hispanic. So latin works created this campaign creates pro bono working with an artist who lent her talents to the project. Can these psa's are truly inspiring and based off the well-known sweet bean photography selections showing infants in a dream like setting and showing the potential every child has. So I'll present the proclamation and then we'll have someone come say a few words. The proclamation reads, be it known whereas special olympics is an international organization that unalicia the human spirit true the transformative power of joy in sports everyday around the world and whereas while the number of births of people with developmental and cognitive disabilities in the u.S. Has increased by 30% since 1970, enrollment in special olympics is not keeping pace with the growth rate of eligible athletes and whereas special athletics is launching a campaign to debunk the perception that disabilities are something to shield or apologize for and encourage parents to see their little ones as stars and to acknowledge their abilities. And whereas austin's own latin works has been selected as the creative agency for the we see abilities video and print campaign. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim july 19th, 2014 as we see abilities day in austin. Congratulations.

[12:20:57]

[Applause].

>> I'm margaret austin, the ceo of certainly olympics, texas. I stand here in front of a team that has gleeted an amazing set of psa's about people with abilities. And most of us think of them with disabilities. I stand here with the latin works team and with the team from special olympics, even taking photos out there. One of the things you need to know is that august the 19th is the day that eunice kennedy shriver parked into chicago field with about 300 athletes in 1968. And so that day is so significant as far as the birth of special olympics. And those that you recognize the name eunice kennedy shriver, she was the sister of jack kennedy, who was the president of the united states. Please remember that we are developing a tremendous outreach to people with intellectual disabilities. That's what special olympics is all about. And one of the things that you need to remember is as we celebrate this day on july the 19th, to remember when eunice brought about 300 people into the chicago field that we are now reaching out to other people throughout the state of texas. And I'm proud to be able to say that the city of austin sees abilities. Thank you very much. [Applause].

[12:23:41]

>> Cole: I'm about to issue a proclamation on behalf of the city of austin and mayor leffingwell for one of the greatest organizations in austin. They serve the homeless and I've had the pleasure of working with them the entire eight years that I have been on the council. The proclamation reads: Be it known that whereas caritas has much to celebrate in its 50th anniversary, having grown from an organization with a part time staff and volunteers working within a 30,000-dollar budget to a comprehensive resource center for marginalized residents with an eight-figure budget and 70-member staff. And whereas thousands of lives have been changed during the past five decades, homeless have found housing, tens of thousands of meals have been provided, individuals have found jobs, many have been educated, and undocumented refugees have been settled. And whereas the staff and volunteers at caritas are to be commended for serving people in travis county who are experiencing poverty and providing them with respect, hope and opportunities for self-reliance. And whereas we are pleased to recognize caritas on this milestone anniversary and to wish them with continued success serving austinites who are in need. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim may 2014 as caritas of austin's 50th birthday. [Applause].

>> Thank you, mayor pro tem. We appreciate you very much. On behalf of our 70 plus member very talented staff at caritas our board members, our volunteers, our many volunteers, our first 50 years in austin, we're a homegrown organization that cares for those who are vulnerable, that care for those who are experiencing poverty. We're so looking forward to our next 50 years and the things that we're going to do that affect those human lives that are here in our community. And we really appreciate the service that the city council and mayor pro tem sheryl cole has given us and we appreciate all the support that our community has for us. So thank you very much and we appreciate this honor.

[12:27:23]

>> We have a proclamation for the internal auditors. We are pleased to recognize the austin chapter of the institute of internal auditors as it celebrates its 35th anniversary chartered in 1979 by 13 auditors, the organization now has 176 members, including 47 city employees and whereas the annual celebration of internal audit week focuses attention on the invaluable assistance that internal auditors provide organizations in evaluating risk and opportunities and in ensuring efficiency and effectiveness. And whereas we are especially pleased to recognize the commitment of our local auditors to upholding the standards of their professional organization and to congratulate those who serve in leadership positions with the international association or with the austin chapter. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim may 12th through 16th 2014 as internal audit week. Here you go. [Applause].

>> I'm robert [indiscernible] with the institute of internal auditors. I'm here representing the 47 people that do some auditing for the city of austin, mostly through the city auditors office and also the 900 plus members of the austin chapter. We want to thank mayor pro tem cole, mayor leffingwell, the rest of the council for being so supportive about it. And also with so many good causes that have been out here today, for finding the time to recognize us. Thank you very much. [Applause].

[12:29:41]

>> Cole: I have the pleasure of recognizing several individuals for the city of austin distinguished service award for their heroic actions on the night of april 7th, 2014. I'm going to read them. Thomas, taz, jeremy and chris, are deserving of public acclaim and recognition while attending a street youth ministry event in a laundry, a strong storm hit and scaffolding outside the building was knocked down, falling on a car and trapping the occupants inside. Jeremy and three other fym clients ran into the storm to clear the pipes and boards to free the victim. With loose power lines lying in the street and the water, the young men acted heroically to save the people in the car. We are pleased to present the certificate in recognition of their selfless actions that night. Presented this day, 15th day of may in the year 2014, the city council of austin, texas. Mayor leffingwell, mayor pro tem sheryl cole, councilmembers chris riley, mike martinez, kathy tovo, laura morrison and bill spelman. And y'all each have a certificate. [Applause].

>> So I just wanted to

-- this is taz on the end. Give a wave. This is thomas. Taz and thomas went in to figure out that there was a car. Nobody even knew there was a car under there. Unless you don't think it's heroic, there are another 24 people standing around, include me, who did not choose to do that. This is in a jeremy and this is chris and they decided it was not acceptable to wait for the emergency responders. The rest of the scaffolding could have come down on that car so they freed the people from that car. We wanted to share this story, which was not publicized by media, particularly because we tend to overlook how homeless people are part of our community in good ways. We are all citizens of austin. As with any segment of our population there are people who do things we don't understand, that maybe we don't approve of, but there are also wonderful people who are good neighbors, taxpayers, workers and who want our city to be great. We're better together and we love any chance to celebrate that. Thank you for honoring these four people.

[12:32:18]

[Applause].

[13:05:13]

>> Mayor Leffingwell: We are out of recess, and we will take up item number 24. We had approved a couple of amendments, and council member tovo has the floor to propose additional amendments.

>> Tovo: Okay. Thank you. So I passed out an amendment for item 24, and there are two parts to the amendment. The first identifies some additional stakeholders, and I would like to just read those out. After taxi drivers, I proposed aing

-- and this is underlined on your copy in pen

-- motorized vehicles or higher representatives, student administrative representatives from area universities, public safety representatives, disability rights advocates, personal and customer is shall representatives and those would add additional stakeholders I think would add value to our process. We did hear from super shuttle earlier today and we received a letter and they requested to participate in the stakeholders process and so the motorized vehicle for higher representative captures them. I think it's very critical we have representatives, students if we are able to identify some, and also I am thinking something in the dean of safety or somebody that works on

-- excuse me, a dean of students, somebody who works as the dean of students at our area universities to weigh in on the safety issues as I see them. At I look at this option, one of the concerns I have for safety. Safety for those who are taking ride. I think it is an interesting thing to consider, expanding our transportation options but safety has to be our paramount concern and I want some stakeholders to be a part of the process that can weigh in on that and I believe the universities and the colleges in the area would have a real interest in participating in that piece of the discussion. So that would be my proposal and I hope it will be a friendly one.

[13:07:30]

>> Mayor Leffingwell: Council member riley.

>> Riley: Sure, I will be fine with that. The word can should appear before "commercial," but I will be fine with that.

>> Tovo: Perfect.

>> Mayor Leffingwell: Council member martinez?

>> Mayor Leffingwell: All right. It's accepted.

>> Tovo: Thank you for the stylistic correction. And then my second proposed friendly amendment to add "be it further resolved" clause. One of the things that we did ask that an earlier resolution asked staff to do is compile this ride share report last may and it identifies

-- it looks at best

-- it looks at the situation in other cities and looks at some of the challenges that other cities have had with regard to tncs, and also some of the successes, but I feel like this information really needs to be updated. We need

-- I would like, before this issue comes back to council, I would really like an updated understanding of where it's legal, how

-- how those cities have surmounted the

-- some of the challenges we have heard in terms of addressing safety concerns and background checks and insurance issues and the impact on the taxicab industry, the impact on taxicab drivers, how these fit in to an ecosystem, a transportation ecosystem, if you will, and so I believe that we would all be really well served by asking staff to update the information in here, look at other cities and do what I have asked here, which is to look at the other cities' regulations, practices and experiences. I would like to hear some case studies of where these tncs have operated, and what kinds of experiences those municipalities have had.

>> Mayor Leffingwell: Before you offer that, council member, would you consider making your 90 days to 180 to coincide with the others?

[13:09:32]

>> Tovo: Absolutely. Thank you for pointing that out. I propose as a friendly amendment with the correction as noted by the mayor of making 90 to 180.

>> Mayor Leffingwell: Council member riley.

>> Riley: Yes, and I ask for a progress report at 90 days just so

-- 180 is

-- which 180 are you referring to, in which section?

>> Mayor Leffingwell: Be it further resolved city council, her amendment asks for the ride share report and the update within 90 days. I just said

-- suggested 180 instead. When the rest of the information is due.

>> Spelman: Mayor.

>> Mayor Leffingwell: Council member spelman.

>> Spelman: Is there somebody from the transportation department here who could speak to the difficulties associated with this? Absolutely. Here comes gordon.

>> Mayor Leffingwell: He is going to recommend five years, I know. [Laughter].

>> Gordon, assistant director of the austin transportation department. We keep up through the action organization through the activities through all of the rest of the cities throughout the country, so it should be pretty easy to update the report of a year ago with the latest happenings and the changes that occurred.

>> Spelman: Do you think you can get that done in 90 days?

>> If that's what the council wants, that's a we can make happen.

>> Spelman: I am prepared to believe, mayor, that the conversation may very well take six months to complete, but this report, I don't think is going to take six months. I think we can get good information where everybody else stands in three months, I think it will be useful to fold into that conversation as well. It takes 180 days to see what denver is doing, we may very well have a conversation that goes on beyond that point, so I think this will be a real useful halfway mark to get this done in 90 days.

[13:11:33]

>> Mayor Leffingwell: Is the council member tovo's decision.

>> Tovo: It doesn't make a difference to me. What makes a difference to me to make sure we have the information before us before the council takes any action.

>> Spelman: I agree. I think it will be helpful for the working group to have the information before making the final call and having it midway through that, then that would be better.

>> Tovo: You convinced me.

>> Spelman: Thank you.

>> Tovo: And this speaks to some of the concerns that we've heard from the taxicab companies who have come today or written and the taxicab drivers, I do want to point out that one of the elements that wasn't necessarily in the austin transportation department's memo but that I specifically asked staff to investigate is what the specific information

-- I will just read it

-- about whether tncs have impacted consumer costs, service reliability and wait time, driver wages, and by that I mean drivers of tncs as well as drivers of existing taxicabs. And, again, the sentence is tncs have impacted taxicab drivers and companies and other forms of public transportation, so we can really get an understanding, as much as possible of what this

-- how the introduction of tncs into the transportation ecosystem could impact our existing taxicab companies and taxicab drivers because clearly you all have invested in your business, whether you are a

driver who invested in purchasing a cab or a company who has invested in hiring drivers and having permits and I think it's important to have this change

-- if this change goes forward, how it can impact your business before the council takes any kind of action. So lastly, I think if this is accepted as a friendly amendment, I would say I will support this motion. I have some concerns about

-- some concerns about tncs and I would really expected that we would vet

-- really would expect we vet them carefully with these reasons for safety as a paramount concern and for concern how it could affect our existing transportation system, including being an equitable, being equitable treatment of our companies and drivers but since we are moving the stakeholder process from the urban transportation division to a different venue, I am fine for those conversations to continue in that format. I assume we are not continuing both committees. There is just going to be one tnc committee. Okay. Thank you.

[13:14:16]

>> Mayor.

>> Mayor Leffingwell: Council member riley.

>> Riley: That certainly is friendly and I do think it would be helpful to get that information at the time of the progress report at 90 days and I think that should be fairly easy to do. There is information coming out on this all the time and staff have been very good about keeping up with it, so I think that will be helpful in terms of informing the process.

>> Mayor Leffingwell: Okay. So I think we are back to a motion that's on the table. It's been amended several times. Any further discussion before we vote? Council member martinez.

>> Martinez: Just briefly I want to say, you know, the cosponsor of this motion, I certainly think it's time for conversation

-- for a more meaty conversation about the tncs and whether or not they can be a component within our transportation system, but as I stated tuesday at the work session, I absolutely share the concerns that

-- that

-- some of the concerns that are being raised, but for me, I have to acknowledge that as chair of capital metro, even

-- even having 34 million boardings a year

-- and that's as of 2013

-- we still can't get you from point a to point b specifically where you want to go. So we have to look at other opportunities. Maybe this is one. If we can get some of these questions answered and some of these fears alleviated, but if we cannot, then we need to look elsewhere. We need to look at the existing franchise agreements that we have and where we can make improvements because we know those agreements expired in 2015, so I just wanted to acknowledge that I think we are doing everything we can at cap metro. I know there has been testimony, we need more buses, we need more buses. We agree, we need more, but we operate at capital metro on sales tax. So if the economy is doing good, we can expand services and when the economy shrinks, we have to shrink our services. That's all we have as revenue. I appreciate the sentiment about wanting more public transportation. We agree. We are doing

everything we can with the limited resources we have at cap metro so I will be supporting the motion as amended.

[13:16:34]

>> Mayor Leffingwell: All those in favor, say aye.? Aye. Opposes say no? Passes on a vote of 7-0. Take up item 25.

>> Mayor.

>> Mayor Leffingwell: Council member riley.

>> Riley: 25 is similar in as far as it establishes a stakeholder process. In this case it should be easier because there already is a working group in place that has been looking at a whole variety of issues related to taxicab service for some time, in anticipation of the renewal of taxicab franchises in august of next year. At this point that has been purely a staff initiated and led process. I think the opportunity -- the opportunity that is presented by the franchise renewal is a very significant one and it wants the council's attention. It wants the council's direction to staff about the stakeholder process and it wants to start setting expectations around the outcome that we would like to see. In particular we shouldn't set high expectations about service levels for the traveling public. People ought to have some confidence when they call for a cab in austin, that they will get a response within a reasonable period of time. That strikes me as a very reasonable expectation for the traveling public. And so the idea of this resolution is simply to endorse the stakeholder process, to set those expectations, to acknowledge that there are significant issues that we are going to have to address as we sift through the issues around taxicabs and to direct staff to continue that process. So

-- but

-- and I don't have any amendments to propose on this one. You have the language before you and I move approval.

>> Mayor Leffingwell: Council member riley moves approval. Second by council member spelman. So I would just ask the question: Why couldn't all of this be covered with the previous option with the stakeholder group that's set up for longer term to study all of these issues?

[13:18:40]

>> Riley: Because there are a lot of issues that are unique to taxicabs, just as there are issues that are unique to transportation networking companies. There have been a lot of ideas floated around the taxicabs for some time, we have

-- with our existing franchise holders, we have had a number of very good suggestion that is want careful attention. There have been ideas about peak demand permits. There have been ideas

-- all sorts of ideas that are out there and I think it's going to require the full attention of an active working group to

-- to address, to consider all of those things and make recommendations, and I just

-- it's hard for me to picture one group dealing with all of that at the same time they are trying to shift through all of the issues of tncs.

>> Mayor Leffingwell: But the last stakeholder group or working group that was established includes all

of these same people. Utc, tnc subcommittee, tnccs, potential cheers of tnccs, taxi companies, taxi drivers, voters, and on and on. I see it being very duplicative. I think you are just going to

-- what do we do if they come up with different sets of recommendations? I think they ought to be all one group of stakeholders considering all of these issues.

>> Riley: Mayor there is certainly some overlap in the issues that the two groups would have to consider, but we have had issues with taxicabs for a long time. We never have addressed all of the issues raised by dr. Mundy's report in 2011. There is a lot to consider there, just as there is a lot to consider with tnccs and I just I think it would be too much to expect one group to sift through all of those issues with respect to both taxicabs and tnccs.

>> Spelman: Mayor.

>> Mayor Leffingwell: Council member spelman.

>> Spelman: Looking at the language of the resolution itself, there is nothing in here which prohibits staff from folding those two groups together. All it says is work with stakeholders in item 25, and I think that's, if in staff's opinion, it's going to be more efficient, a better use of everyone's time to fold those two groups together, they have the authority to do that and I hope they take that authority if they think it's the right way to go about it.

[13:21:02]

>> Mayor Leffingwell: Council member tovo.

>> Tovo: This is on a different point.

>> Mayor Leffingwell: I understand.

>> Tovo: So I passed out an amendment for this item as well. So the

-- we already have an existing stakeholder group looking at this issue as has been said. They have a variety of issues on their list, and I think there is a little overlap with what has been proposed in the resolution. They are already, for example, looking at alternative fuel vehicles, green gold and group mile and, and that's part of the group's charge and we have a couple of times identified as issues we wanted taken up in franchise discussion are noted here as proposed amendments and that's what I distributed on my

-- on the yellow sheet and that would be insurance. We have heard concerns especially from drivers with regard to insurance issues. Workplace protections for drivers. Again, I think most of us have heard requests for an ordinance that addresses some of the protections that drivers have in their experience deemed necessary and so I think that's perfect. This is good timing to address that in the franchise discussion, and then the third item would be legacy permits. We had passed a resolution quite a while ago when we allocated some additional permits to the franchise to two companies, I believe, and we had identified at least two of those three items as things we wanted the staff to consider during the franchise agreement process, so this really just makes sure that they are

-- that

-- since we are tasking

-- this resolution would task that stakeholder group with looking at some particular issues. This would make sure that they are reminded of those important issues that we had already identified that were important to taxicab drivers to have considered in the franchise agreement process, so I propose those

as friendly amendments. Again, adding three bullets, insurance, workplace protections for drivers and legacy permits.

>> Mayor Leffingwell: Council member riley and spelman.

[13:23:13]

>> Spelman: Okay.

>> Mayor Leffingwell: Any further discussion? I will just say, I think I am going to vote no on this. I am not opposed to working on all of these issues. I think we should, but I think having two separate stakeholder groups at the same time working on items that have so much overlap is going to be confusing and increase the demand on the staff, so I don't think I am going to support it. All those in favor, say aye. Opposed say no. No. Passes on a vote of 6-1 showing myself voting no. That brings us to our 4:00 o'clock items. And the first is number 58, consider an ordinance repealing a and replacing city code section 462, et cetera. Do we have any kind of presentation from staff on this? Let's go to our public hearing. Stewart hersh. Is stewart hersh here? Andre loobomudrove?

>> Right here.

>> Mayor Leffingwell: Go ahead. You have 3 minutes.

>> Let me just get my notes real quick.

[13:25:27]

>> Okay. Good evening, mayor, mayor pro tem and council. My name is andre loobomudrove and I am here with the austin board of realtors, a professional association with more than 9500 members in the austin area. The austin board of realtors is supportive of enhanced types and penalties for code violations for posed health and safety threats. However, we do not believe enhanced penalties in the ordinance before you go far enough and as such, they will not significantly help in bringing hazardous properties into compliance. That is why we are taking a neutral position on this ordinance today. We think council should leverage the full range of code enforcement

-- code enforcement options at your disposal but we do not believe the proposal before you will have a significant impact on bad actors. A modest increase in penalties for repeat offenders is not likely to be effective when the code compliance department issues such a small number of citations, just 14 last quarter compared with 3,471 complaints received and 1,479 notices of violation issued. Taking data on code citations issued together with reports of properties that pose known safety hazards and yet continue to operate in noncompliance would suggest that the key barriers to performance have much more to do with the business practices and culture of the code compliance department than with the fines levied in municipal court. We understand the question of how to achieve greater compliance with city health and safety codes is not likely to be answered with a simple easy solution, but we believe the greatest potential lies in more effective use of tools currently available to the city, including the building and standards commission and municipal court, as well as a concerted interdepartmental effort to identify issues and coordinate enforcement of both nuisance and health and safety codes. We urge you to keep up the pressure on city staff to effectively use the resources at their command and to demand the request for expanded legal authority be based on a data driven analysis of impediments to

performance. That is all.

[13:27:52]

>> Mayor Leffingwell: Thank you. We ask staff here if you have any questions? There is Stewart Hersh. Okay. You have 3 minutes.

>> I apologize for being late. My name is Stewart Harry Hersh and like most in Austin, I rent. I am here to oppose the criminal enforcement ordinance in its present form because my experience tells me that the fine for first conviction is too low. I ask that you amend 25-1-462d1 to read \$2.50 instead of one dollar for first violation. I submit to you the documents during the rental debate last year showing 20 years ago the senior municipal code they agreed \$127.50 would be a minimum fine more most common land development code convictions since the cost to prosecute and convict are no less than 2,014 and my proposed amendment is more in alignment of volunteering compliance and the costs when municipal court is the only known path to achieve code compliance. The draft ordinance before you does not specifically address the international maintenance code but the recommendation for council action document for item 58 does represent the IPMC. I am concerned last October 3, October 3, 2013, you passed resolution 20131003-100, which I have attached for your review, directing city staff to bring to you potential code changes concerning expanding the building and standards commission and expediting permitting for those trying to comply with the IPMC and while the building and standards commission made the standard several movements ago and I have, there has not been an item on draft council agenda to conduct a public hearing at some date before you leave office and possible vote on code amendments related to the October 3, 2013 resolution, so I know you are not posted for action today but I ask that you place on one of your future agendas setting public hearings and actions on code amendments relating to building and standards expansions and expedited permitting and you change the ordinance to 12750 which is more to cover it than a dollar is. Thank you very much.

[13:30:33]

>> Tovo: Mayor.

>> Mayor Leffingwell: Council member Tovo.

>> Tovo: Can I ask the staff

-- thank you, Mr. Hersh for the point you raised. I am also concerned we would consider assess a one dollar fine for cop viction, but as I read this, it suggests that the one dollar is the minimum and 2,000 is maximum. It says a person who is violation is one dollar up to \$2,000 but it doesn't mean it would be a dollar.

>> Assistant attorney. A dollar would be the very minimum that a jury or a judge could punish for a first conviction.

>> Tovo: Okay.

>> On top of that, so the council knows, the violator will also pay court costs and things like that. This is literally just the fine piece of what you pay if you are convicted.

>> Tovo: Why is that set up one dollar and not, as Mr. Hersh suggested, 127?

>> State law and the way our penalties are generally set out, it starts at 1 dollar and goes up to the

2,000. The one thing I get to take into consideration for a first time violator, if they are -- you know, they may learn, if it's just their one conviction, the 127, I do not know where mr. Hersh came up with that number. There is also a minimum window fine that the municipal court will charge for people who just walk up to the window and pay their ticket and plead guilty.

>> Tovo: Would we have an option of changing d1 to reflect another number as a minimum for a first conviction?

>> Yes.

>> Tovo: Would that need to be done now?

>> You could do that.

>> Spelman: Mayor.

[13:32:33]

>> Mayor Leffingwell: Council member

--

>> Tovo: I think that makes good sense.

>> Spelman: Do you know what the minimum window of fine is?

>> I do not.

>> Spelman: It seems to me if we sat

-- if you go to trial, you might go to a dollar, but if you pay at the window, it's going to be 127.50 or a larger number, nobody will go to window and you will have more trials and you will have trials and a bigger backlog and I understand that's a problem because we have fewer lawyers in municipal court than we used to so it seems like we set the minimum to minimum window fine and perhaps track the minimum window fine over time if that's going to be changing as part of the budget.

>> I do not know how the court

-- I think that's a decision that's made between the municipal court clerk and the presiding judge and I don't know that that particular one is in your

-- is in the fine ordinance.

>> Spelman: So this might be something we just worked out on a periodic basis between the judge and the chief clerk?

>> Yes.

>> Would it be possible for you to find out what that number is sometime in the next few hours?

>> I can try.

>> Spelman: We will be here for a while, so if we put this on the table, we will have plenty of time to take it back up again.

>> Yes, sir.

>> Spelman: Mayor, I move to put this on the table until trish comes back with a number for us.

>> Mayor Leffingwell: I am willing to table it but let me say one quick thing before I do, and that is I think it's consistent with other fines. It just gives the jurisdiction flexibility for extenuating circumstances to make the penalty more or less. I think it's consistent with other penalties that we have and so I am going to be reluctant to make a special case out of this particular crime. But without objection, council, we will lay this item on the table and pick it up later, with the additional information that was requested.

[13:34:41]

>> Mayor Leffingwell: And item 62, we had no speakers signed up. Without objection, we can take that up and entertain a motion on this item, 62, public hearing, consider an ordinance that readopts city code chapter 9-3. Council member spelman moves to close the public hearing and approve. Second by council member martinez. Discussion? All those in favor, say aye. Aye. Opposed say no. That passes on a vote of 7-0. Takes us to item 59 and 60, which we will consider together for purposes of public hearing. We will vote on them separately. And I think we can go directly

-- do you want to make a couple of brief statements about it

-- thumb name sketch.

>> Chuck nosiak, city environmental officer. Two items tonight, one addressing shoreline development and the docks on lake austin and the other is la zoning overlay that was requested by council resolution on august 29. We had significant code amendment process. The environmental board and planning commission both voted overwhelmingly to support both of these ordinances and primarily, particularly the shoreline development dock, addresses city code, existing requirements, makes definitions and requirements more clear and provides for a more efficient effective process and I think at the end of this, I think it will benefit everybody, property owners, developers, and the city review process. We've got staff here to answer questions as we go along. Okay. Thank you. Public hearing. Allan rodney is the first speaker.

[13:36:58]

>> Good afternoon, I am allen rod diand a member of the lake austin task force and unfortunately the time is not enough to discuss the city ordinance. I ask the council to take more time to review some of the changes city staff wants to make. Some of the changes go against the recks of the lake austin task force. First of all, none of these changes to the city ordinances will do

-- will do very little to actually help protect like austin. Those code changes more have to do with the city hall bureaucracy than dealing with the real problems in lake austin. The lake austin task force recommended against the use of administrative barriers 8 years ago when I started coming to city hall to talk about lake austin issues. I use the old chinese saying about dying the death of a thousand cuts. Lake austin is still dying a death of a thousand variances. To me administrative variances is another term for background dealings. Any variance dealing around the colorado river need to be discussed and reviewed in public. This is another reason that city council needs to point someone to look out for the best interest of the colorado river. The code changes talk about boat docks being tied to residential houses but there are small recreation allots with boat docks that don't fit into the city code so all of your changes won't apply to them and vice versa. The city council has had a three year time span to make repairs to boat docks but some repairs need to be made when the lake level is lowered. It used to be lowered on two year cycle but with the drought, we don't knee when the lake will be lowered again. The 3 year time period was picked out of the air by city staff. As I learned living on lake austin, lake austin runs on lake austin time, not city hall time and we do need some flexibility when dealing with the colorado river. Dealing with the lights on the boat dock, the code requires boat dock lights to have light

stations on each corner in front of the boat dock and the code requires each light station have two lightbulbs, so we have four lightbulbs of the front of our boat docks t new lightbulbs, four or five years, the redundancy is not needed anymore. The lightbulb lasted six years. It is one change that could be made. Also, they require lights on the side of the dock every 15 feet and which most boat docks were all sort of grouped together. My street is a mile long, so we have a mile of boat docks there and the boat drivers won't see the lights on the side of most of the docks, just the ones on the east or west end. The trans, I am surprised to learn that city staff interpreted the city code not to allow trams on lake austin anymore.

[13:40:06]

[Buzzer alarming] this is a major change. I am surprised it wasn't brought up when the lake

--

>> Mayor Leffingwell: Thank you, allen.

>> Thank you.

>> Mayor Leffingwell: Rick raspberry.

>> Good evening, mayor, mayor pro tem and council members. Thank you for allowing me to present comments on these matters. My name is rick raspberry, from permitting and consulting services. I recently retired from the city of austin with more than ten years of service as city's assigned senior and environmental inspector on the lake austin water way. In addition to the ten years of service, I recently concluded with the city, I also previously worked for more than 15 years with the state of texas and other private consulting firms, including 12 and a half years in the enforcement division of the texas water commission and the texas natural resource conservation commission. I have a bachelor of science degree awe quatic chemistry and biology from southwest state university

-- aquatic, I have lived in austin 30 years and reckiated on austin water way during many of the 30 years, like several of the good folks here tonight, I feel extremely fortunate, honored and blessed to call our great area home. We are truly blessed to have or really to borrow an incredible ecologically diverse area and magnificent water way. And I believe it's all of our duty as environmental stewards to protect the natural character of this abun jewel. The lake austin task force, board and citizens all deserve kudos for the coordinations and the endeavors. However, I am not of full belief that the proposals presented tonight here are comprehensively designed and modeled with a compulsory emphasis on actually protecting the lake austin ecology and local environment. And would certainly question the proposals as drafted currently. They would in fact actually promote austin's economic well-being. Personal and direct experience that I encountered as the city's assigned lake austin environmental inspector for the previous ten years and previous rule making efforts on these matters and ordinances which went into effect in december of 2010 really suggests and emphasizes the importance of sensitive and innovative approaches. But not one that's hastily and unfairly promulgated just to simply get something new on the books.

[13:43:33]

[Buzzer alarming] I have less than 30 seconds.

>> Mayor Leffingwell: That's your question

-- I mean, that's your time.

>> Thank you. Thank you for your time.

>> Mayor Leffingwell: Uh-huh. Lynn brooks. Lynn brooks. Okay. Janell chestnut. Janell chestnut. Carol lee. Roy waley. I don't see roy. You have 3 minutes.

>> Okay. Thank you, good evening mayor and council members. My name is carol lee and I served as the navigation committee chair under the parks board and also as vice chair on the lake austin task force. I think staff has done a really admirable job in being responsive to many of the consensus recommendations of the task force. They

-- in response to your directive to come back with the two ordinances that are before you tonight. It's not

-- I mean, we came up with amazingly like 65 consensus recommendations which was incredibly difficult with this team and the 100% consensus procedure that we operated under, and the ordinances that are coming before you tonight and working their way through y'all are kind of the low hanging treat. Low-hanging fruit. It's the easy things that the city can do. It is not comprehensive and all involving, which we hope that the pending lake management division process or group will address some of the other issues. I am not 100% happy with them, either. I think they could use a little bit of improvement. The lake austin overlay, I think, is covering 60% of the area, which I think whoa should do better than a little bit more than half to be really protective of this incredible resource. I would like to see park

-- I would like to see it consistently applied

-- if you want to exclude one area, I think it would make sense to exclude the one area that has an approved neighborhood plan because they have undergone some planning and they also have a watershed that's under mandatory cleanup by tceq, so hopefully those efforts would help that end of the lake. But at least I think the city should make itself subject to the ordinance and include park land and the puds and think about when these properties are redeveloped, we need to hold them to the core values that are expressed on the overlay. On the dock regulations, I am still hesitant about allowing structural components to be replaced for noncomplying structures, allowing them to live on in perpetuity, the discovery of the task force in talking to staff and inspectors and stuff is rarely does one piling rot

-- usually when they are in that state, the whole structure is becoming impaired and at that point we want it to come up to current regs. At least staff has promised me that it can't be done under a site plan exemption, so I think that's good and I trust that they have that worked in, because they have been having a lot of problems with the 50% rule and work

-- significant work being done under site plan exemptions.

[13:47:26]

[Buzzer alarming] this is our critical water quality zone and I think you need to think about the million people that rely on it.

>> Mayor Leffingwell: Your time is up.

>> That you can

--

>> Cole: Excuse me, mayor, I have a couple of questions.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: I thought there were a couple of other items that you were suggesting from the task force that still needed to be addressed. Would you tell me what those are?

>> The administrative approvals, I think mr. Rodney did mention this, that council asked us specifically to make a recommendation on how variances to 25-8 would be handled. During the time that the task force was in doing their work, they were going before a public review, not allowing administrative approvals, as had been done previously. Staff is recommending that they go back to administrative approvals on that.

>> Cole: And the task force, did they do that?

>> The task force had consensus they should not be done administratively. They needed a public -- talking about critical environmental features or asset for the entire public and it should have a public review process. And similarly, with the dredging. During the task force work, staff told us 10 cubic yards could be removed under the nationwide 13 permit. I think the current regulations are proposing 25 cubic yards and the nationwide 13 permit reads like one yard per per linear foot so I think it would be wise to add details on how they are coming up with the 25 cubic yards that can be administratively approved without the corps of engineer being involved.

>> Cole: Thank you, carol.

>> Uh-huh.

>> Mayor Leffingwell: Council member morrison.

>> Morrison: Carol, I want to ask you a little more about the variance issue because I have been talking to staff about it. One of the suggestions was that maybe some variances, some types are more delicate or of concern than others. Does any

-- I know we might be able to talk about this off line, but does that strike you as the way you see things? Like, for instance, it was suggested that there is a default buffer of 300 feet from a cef, and they give lots and lots of those, and so would it be problematic to put so many of them into the system and if it's 290 feet, would that be okay, but could we put a limit on it and maybe just bring some variances?

[13:49:56]

>> Well, for the year that the administrative approvals were suspended, while we did our work, we did ask staff attend of that year, has this been an issue? Has this been a burden on the board's commissions, on staff members, and there were less than a handful that had even come forth, and several of them had withdrawn even consideration because it had to go through a public review process so it was pretty indicative to us that it was working. It was better to have it in the daylight.

>> Morrison: Okay. Okay. Thank you.

>> For environmental ones. Not all variances but 25-8.

>> Morrison: Now they are going to zap, is that correct, in the proposed?

>> I think that's what staff is currently proposing. It depends on whether you are in a neighborhood plan area. It goes to pc if you are asking for one in the one neighborhood plan area. So

-- which I think it would be better to go to one. We were all after comprehensive oversight.

>> Morrison: Got it, thank you.

>> So that would be more efficient.

>> Mayor Leffingwell: I am going to say

-- it is not a question. I disagree with that, because I think specifically with regard to critical environmental features, there is so many extenuating circumstances to altering the standard setbacks in exchange usually for something else that provides an overall more beneficial result. I have seen that so many times, and I think the best

-- that judgment is best made by the experts

-- I use that in quotations over in watershed protection. But do I want to ask you a question, mr. Lezniak, about this item in particular, a couple. Remember the task force had the definition for consensus and that consensus was defined as 100%. These recommendations, I had heard previously, in 59 were all consensus recommendations. Is that true?

[13:52:04]

>> In what's before you today?

>> Mayor Leffingwell: Yes. What is before us today.

>> The

-- most of the amendments that are recommended by staff and that are in the ordinance, the proposed amendments are directly from consensus recommendations of the task force. There are a few things that were not recommended by the task force, the administrative variances is one of them. They did not recommend

--

>> Mayor Leffingwell: Did they recommend against the administrative variances?

>> Yes, they did. They specifically recommended that it continue as it is currently in code since may 2012, and go to boards and commissions. I do want to point out on that one issue, this is the only area of the city that we do this. We don't require there even in the barton springs zone for those administrative variances.

>> Mayor Leffingwell: The only area where you don't

-- where you

-- you can't use administrative?

>> Yes.

>> Mayor Leffingwell: I was going to say, that has been my experience.

>> There are number of portions of 25-8 that the director has the authority to do administrative variances even in the barton springs zone, the only one that doesn't apply for 25-8 is along lake austin.

>> Mayor Leffingwell: And like I said, there is so much variability of what these critical environmental features might be as part of a bigger system. I particularly remember one example is the critical

-- in spring, I think, critical environmental feature which had a small water way

-- fed a small water way, which according to the definition didn't earn any protection at all with regard to setback. But the

-- in the administrative process, they were able to negotiate a smaller setback specifically from the caf and also the set back from the entire water way. That's the kind of thing

-- tradeoff that I think kind of goes on, which would be kind of hard to deal with for somebody who is

not out there on the ground looking at it. All right. That's all I had. Thanks.

[13:54:08]

>> Thank you. So I believe we have one more speaker. Bruce operlee.

>> Mayor and council members. Bruce operlee and I am a civil engineer here in town doing permitting for shoreline and boat dock work. We practice probably 75% of that business, that happens here in town. And staff has come a long way with their recommendations. I don't think they have come 100% towards where I would love them to be and help me get permits or help me expedite permits or help me do them easily. And I do have a few remarks about what is in the code as proposed and what I would like to see changed. One is to allow trams. There is a need out there for trams, especially in the steeper areas. They need to restore the surveying and testing clearing segment of code. They need to expand what is allowed on a dock. If they showed you what the flowchart was as far as where we go when they have certain issues, if it's not in the list of 25 to 893, it comes to you guys. I have to ask you if I can put a slide on a dock and the kids slide off the dock. I have to ask you for a ladder if the ladder is proposed on the dock. Et cetera. There is a bunch of items they excluded. Need to add definitions for woody vegetation, what is legally built and permitted and what is a dock footprint. In this code they are cleverly changing the definition of what a footprint is for a dock. Today we used lower deck as the footprint more or less. They expanded that to include the drip line of the roof and all of the pertinences that go with a dock because the total dock footprint, and if they change the definition, you would think they change square footage they propose from 1200 square feet to 1600 square feet, so apples to apples, basically. We like them not to require 45-degree bulkheads on manmade channels. They are going going to allow it on existing manmade channels but not anything new, which will make channels extremely large, and then. And then there is a question about sanitation facilities there, if you have 2-10 slips in a community

-- a marina, you are going to have to provide sanitary facilities. Well, those sanitary facilities have to be 100 feet off the lake. Most of these community facilities are 50-foot strips along the lake and there wouldn't be any land to qualify to put the sanitary facility on the site. When the sanitary facility is required

-- [buzzer alarming]

-- we also like it to be required at a single family house. Thank you.

[13:57:40]

>> Mayor Leffingwell: Thank you. Linda guerrero.

>> Good evening mayor, council members, I am linda guerrero and the former lake austin chair and the former boards chair, I brought this up to you long ago. I want to share with you april 19, 1951 minutes of city council and in this a citizen comes forward with concerns about lake austin. So we are still at it. We are still trying to get these concerns taken care of and this one particularly, where he is concerned about speed and requesting possibly we get some sort of speed limit, that came up with our lake austin task force. It didn't get consensus for it. But it is the same concerns, the same chronic concerns coming forward over and over again. I do want to thank staff for their work, their effort, for all that they have

done, and it's been difficult, and yet they did and honored and respected what the task force recommended, which was to define, define, review, update, modernize and try to get ahold of some of these very chronic concerns that we are all wanting to move forward with. Basically I have talked with staff over the boat docks. I have gotten some very good reassurance. I am going to rely on them and their expertise and kind of back away from that. The one thing I would like to say about the overlay ordinance is that if we could increase the pud into that, it would be significant. It would add additional protection. Another council member mentioned public parks. I am hesitant with that but I am willing to go along with it, if that's, so be it and that's the will of the council. I want to make sure that we can continue to have commercialization on those parks and it wouldn't interfere with that ability for director hensley to do those things to help her budget. So all I wanted to say tonight is to thank y'all. We have come a long way. I think we are getting very close to it, and, again, staff has done a phenomenal job and I am so grateful and appreciative for this opportunity that you did provide the citizens of austin, and I know that there is a lot of concern about people that do recreational use and live very close, but we have to be broad based and remember, this is for all of the citizens, north, south, east, west, all of us are a part of this beautiful lake that we treasure and it is our drinking water, so thank you again, council.

[14:00:29]

[One moment, please, for change in captioners]

>> there's a couple of concerns

-- several concerns that people raise. People raise as at the time tick concerns that usually to put in a tram you have to clear out most of the vegetation along that slope and it creates a visual scar. That also creates removing all that vegetation creates a vertical scar down that bluff or slope that is an avenue for erosion.

>> Mayor Leffingwell: Can you still get a variance for a tram?

>> You can still get a variance for a tram, yes.

>> Morrison: I had a question for ms. Guerrero if she could come back up. You mentioned the idea of having it apply to puds as well as properties that are la. Could you speak to the rationale for that for including puds?

>> I believe what we looked at briefly, it looked like most of the puds had once been la anyway before they converted over to pud. So it seems like they were part of the big group anyway. So let's go ahead and bring them back in and let's have this overlay go and extend all the way. And I agree with what ms. Lee said. And if we exempt an area, we exempt that central west austin neighborhood association that's been pretty much built out already. I've talked extensively with the neighbors in that area and heard their concerns but the puds would be able to get us up and have the exact percentage. I don't know the exact percentage, but this is our time, our chance, this is the ability we have. No one has looked at this for many decades and it probably won't be looked at again, so why don't we really look and see if that's a possibility.

[14:03:22]

>> Morrison: And also since puds are supposed to be superior, one would think that there wouldn't be

any problem of putting something that used to be la, putting the la features on top of something that used to be la.

>> And it's always had that included, being superior. That's always been a piece of it. So this would just fold into it beautifully. And then

-- go ahead.

>> Morrison: And if you have something else to say I want to hear it. I wanted to ask staff if they wanted to comment on the idea of puds. I did ask the question and it's in the q and a for people who are interested and in front of a computer that staff provided

-- a map of all the pud's in the area.

>> Approximately 5

-- a little less than 5 percent, 4.92% of the lake austin shoreline is within a pud. And of the area within a thousand feet that we're talking about for the overlay we're talking about 13% of the area within the overlay would be in a pud. The staff would not recommend that we include pud in the lake austin overlay. The reason for that is that a pud is a negotiated zoning with a set of site development regulation dollars specific to that pud and that pud only. Usually in order to get that we get superior development, which may be a variety of ways that the developer did that. So we don't feel it would really be a good idea. The city manager has received things in return for superiority and they got things in return, maybe a multitude of things, but to come in after the fact, after we've reached that compromise and the council has approved the pud and the developer has walked away with this set of site development regulations, to go back after the fact and now say the la site development regulations apply to that pud, staff does not feel that's a good idea.

[14:05:26]

>> Morrison: Let me ask you this: If the pud conflicted with the la overlay, but the pud was already granted, wouldn't the pud and the entitle means in the pud overall or would they overrule because they already exist and if we were making changes in the future the la overrule would come into play and if it was an amendment to the pud you could over lay it if you wanted to, but it would put the expectation on there of achieving the la overlay.

>> You could say lat regulations

-- the overlay regulations apply except to the extent varied by the pud. That would be one way to go about it.

>> Morrison: Would that allay your concerns? Because I certainly wouldn't be interested in coming in with lat overlay, taking away existing pud entitlements that had already been negotiated. So if we did it that way to the extent they extent the pud rules, would you have less concern about it?

>> I have less concern. We still have a concern, but I would say less concern. Our concern is when a developer often times goes through a pud, which is a longer process, they have to give up something in exchange for certainty, so don't want to feel right taking that certainty away from them now.

>> Morrison: We're only talking about changing the future and the expectation for the future. So there are certain views of what they have in their negotiated pud, so I guess I don't

--

>> you would have it apply only if they changed from pud to something else?

>> Morrison: Only if they wanted an amendment to the pud.
>> We would be fine with that, yes.
>> Morrison: Thank you.
>> Cole: Mayor, I have a follow-up question.
>> Mayor Leffingwell: Mayor pro tem cole.
>> This is on a different topic. You heard the testimony from ms. Guerrero and carol lee about excluding properties within the west austin neighborhood group or that have a neighborhood plan. What is y'all's opinion about that?

[14:07:29]

>> We actually don't. We looked at it and the only area within the neighborhood plan is tarrytown. Since the overlay would only apply to properties zoned la or dr, there are no properties within that category in tarrytown. So you could do it, but it would have no effect because we have no properties with that existing zoning.
>> Cole: Then why would we do it?
>> I don't think you would need to do it, to be honest.
>> Cole: Okay. Councilmember tovo.
>> Tovo: You listed off some percentages and maybe I didn't catch them. Can you tell me how many single-family properties
-- how many properties are within this area that are single-family and not la zoning?
>> The number or the percentage?
>> Tovo: Both.
>> The percentage that are zoned sf 1 or isf 2 within the thousand foot overlay would be 5.9%. Sf 3 would be 3.76 percent. And did you want other categories.
>> Tovo: So one concern I have is that they wouldn't be subject to these provisions if it goes through as it is, but if somebody bought two lots next to each other
-- I think part of the argument or the rationale is that these are pretty small lots. But if you bought two next to each other and we may have even had a case like this recently, then really what you can construct on that is pretty big. So could you make a provision that if there are two lots next to each other that had sf zoning you can't join them together without complying with the la restrictions?
>> I think that's something we could consider from second and third reading. Your question is a percentage. Again, the idea behind that including the single-family was because under la, especially if a lot is created after I think '86, the impervious cover is 20% whereas in sf-2 it's 45 percent. We felt that that was a pretty severe adjustment.

[14:09:34]

>> So the rationale would be then that they would be subject to much lower impervious cover limits if these restrictions applied to sf lots?
>> That's correct.
>> Tovo: But I would think that argument disappears if you amalgum mated two lots next to each other

or three. It's like the pud amendment. You're changing the nature of the game there and you should be subject to the la requirement.

>> We can look at doing that similar to the existing la regulations. If a certain set of regulations were created before a certain date and after a certain date. We could look at putting a similar provision in the overlay.

>> I think that would make good sense.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: Jerry, I noticed we have yellow on the dais, something dated may 15th and I've been reading the april ninth version. Can you off the top of your head tell us what the difference is? Is there anything of consequence?

>> Mr. Lloyd made a few changes, I'll have him address those.

>> Impervious cover present lloyd, assistant

--

>> brent lloyd, the assistant city attorney. The numbering at the bottom was accidentally 491 instead of 492. And then we consolidated b since there was no paragraph 1, we just made it a uniform subsection b.

>> Morrison: You're talking about page 59 or 60 right now? I'm sorry, I'm a little lost.

>> I'm on the overlay ordinance. Which is item 60.

>> Morrison: Okay. And what about 59? Is it just typographical stuff?

>> It's very minor.

>> Morrison: If that's all it is, that's fine.

>> I can tell you it's page 8. We added

-- we changed alter to modify because that's the term that's used throughout the balance of the ordinance. And additionally to avoid the appearance of any conflict we added language that says except as otherwise allowed under the site plan exemption section because there are certain limited allowances under that section for maintenance and just routine repair of docs that did not require a site plan. It was never the intent of this ordinance to start requiring site plans for that type of activity.

[14:12:12]

>> Tow mayor, I want to note that item 59 doesn't have any numbering changes from our version or the version posted in backup.

>> No.

>> Tovo: Thank you.

>> Mayor Leffingwell: There will be two separate motions for these two items, 59 and 60.
Councilmember morrison.

>> Morrison: So I guess we would start with 59.

>> Mayor Leffingwell: Right.

>> Morrison: The bigger one. So I guess I'd like to start by adopting the pc recommendation and I'll start with that and then make some motions independently of that.

>> Mayor Leffingwell: We'll start with approval of 59.

>> Yes. And are we at first, second, third reading?

>> Mayor Leffingwell: First, I think.

>> Morrison: We're talking about first reading right now?

>> Mayor, there's been a number of questions from council and I think it's appropriate to do just first reading tonight.

>> Morrison: All right.

>> Mayor Leffingwell: So your motion is to close the public hearing and approve on first reading.

Seconded by councilmember spelman. Councilmember morrison?

>> Morrison: Thank you. I would like to make a motion that we add the people act to include puds -- the people act to include puds and to the extent that the la overlay conflicts with the pud, the pud rules, then it would have to be in the future that they have to comply.

>> Councilmember, I believe that's item 60 that you're speaking of and we're on item 59 right now.

>> Morrison: Oh, I am. Thank you. I will say that I am interested in looking into the variance issue a little bit more and studying it some more because I think that it would be interesting to really understand all the different kinds of environmental variances and which ones in barton springs zone that administratively can be done and things like that because I think that the fact that very few actually came forward in a year is very interesting to me. So maybe staff could provide that as some information of how many came forward in the time period and what they were for.

[14:14:33]

>> We can certainly do that.

>> Morrison: Thank you.

>> Spelman:.

>> I understand that you and your staff are still working with stakeholders to make small changes to this ordinance. If I right about that?

>> I think actually more to clarify some misunderstandings. I think that we met with the friends of lake austin this afternoon. I think a large portion of their concerns were actually a misunderstanding of the ordinance and the intent and I think we clarified most of that this afternoon. I think they may still have a couple of questions and concerns they were going to go back and think about it a little bit. But I'm hopeful that we addressed most of their issues.

>> Spelman: If any of those misunderstandings could be rectified in the future by making small changes to the wording to clarify what the intent is that might be helpful too.

>> We would certainly do that.

>> Spelman: Who would you expect we would see this back for second and third readings?

>> I think we can bring it back next week. I think most of it is pretty minor. The information that councilmember morrison is asking I think we can turn it around pretty quickly.

>> Spelman: That's specific. Thank you, sir.

>> Mayor Leffingwell: We heard some concerns here tonight such as, just for example, increasing the allowable deck impervious cover from 1600 to

-- from 1200 to 1600. That sort of thing. Are these the kinds of concerns you're hearing from others in the lake austin group?

>> That wasn't raised this afternoon with the friends of lake austin group that we met. I know that issue

has been brought up and I think we can look at that. I think we've got good data to support the 1200 square foot. It covers about 85% of the boat docs that exist today.

>> Mayor Leffingwell: I think the concern was either do that or not include some of this other abutting structures or non-related structures as a part of it.

>> We can look at that.

>> Mayor Leffingwell: I'd like to see a list of those concerns when we come back on second reading.

[14:16:37]

>> Okay. And one thing, mayor, is mr. Rusthoven just pointed out that if we come back next week, backup is due tomorrow so maybe two weeks might be more appropriate.

>> Mayor Leffingwell: The meeting after next. Meeting after next.

>> Mayor Leffingwell: Councilmember tovo.

>> Tovo: I didn't realize we were moving so quickly. I would like the record to reflect that I am recusing myself from any and all sections related to docks and bulk head improvements and I have provided the city clerk with a list of those sections of code. I'd be happy to read through them, but you would probably rather I not.

>> Mayor Leffingwell: Okay. I assume this is the proper way to go about it? Okay. The clerk will so note. In the minutes. All in favor say aye? Opposed say no? It passes on a vote of seven to zero on first reading only. And now we'll take up item 60. Councilmember morrison.

>> Morrison: If I may

-- would you recommend this a first reading also?

>> If you would like to make amendments, yes.

>> Morrison: Okay. You're right. It will be fine, just bring it back when we bring the other one back. I would like to make a motion that we approve on first reading.

>> Mayor Leffingwell: Motion by councilmember morrison to close the public hearing and approve on first reading. Seconded by councilmember spelman. Councilmember morrison.

>> Morrison: I would like to make a motion that we include pud's, this being applicable to pud's, but as we discussed to the extent of conflict with an existing flood, the pud regulations would rule.

>> Mayor Leffingwell: So you're amending your motion or you're offering that as an amendment?

>> I'm offering this as an amendment. To my motion.

>> Mayor Leffingwell: Councilmember spelman.

[14:18:38]

>> Councilmember morrison, I believe we spoke of two different ideas a moment ago. One was as in conflict with the pud and the other one was applying to only pud's or after passage of this ordinance.

>> Morrison: Is that equivalent?

>> No. Because I think we have existing pud's and they may not speak, for instance, with regard to shoreline modification. So if the pud did not identify shoreline modification, and this does, it would apply. Whereas if you're talking about a pud that's only amended after a certain day, then today that would not apply t only apply if they came in with a modification to that pud or if they try to change it in

the future.

>> Morrison: Hmm, I don't see how effectively that's different. They're living under a pud now and we don't want to make anyone non-compliant. So as long as they don't amend something it doesn't matter whether or not it sits

-- the overlay sits on the property.

>> For instance you have a pud and maybe it doesn't address shoreline modification. The overlay rules have a shoreline set back. We could say the pud has a shoreline set back whereas it didn't before.

>> Morrison: And if it didn't

--

>> okay. We would go with the not in conflict.

>> Morrison: Okay. Thank you.

>> Mayor Leffingwell: So jerry, was this a consensus recommendation of the taskforce, 100% recommendation?

>> This item, no, was not a consensus item from the taskforce, but it did come as a result of a resolution from the council.

>> Mayor Leffingwell: Okay. Councilmember tovo.

>> Tovo: Mayor, I would like to ask the sponsor

-- the maker of the motion and the co-maker of the motion

-- sorry, I guess we've been here too long today

-- if they would like to

-- if they would add what we talked about earlier, which is to provide some direction to staff to come back on second reading with some language that would prevent against the situation I described earlier where somebody could purchase two single-family lots or more and then not be subject to the la restrictions.

[14:20:49]

>> Mayor Leffingwell: Accepted by the maker and the second? Councilmember tovo.

>> Tovo: Mayor, I wanted to say one more thing. I may have said this the last time we had a lake austin issue. I wanted to thank again ms. Guerrero and ms. Lee because they came to individual councilmembers and noted some of the issues they were seeing out there on lake austin as members of the parks board and just good community stewards. So really it was their inspiration that gave rise to the taskforce that gave rise to this long process which we're now beginning to wrap up. So thank you very much. I just want to extend my personal thanks. I think you've done tremendous work for our community on this front.

>> Mayor Leffingwell: Those in favor of the motion, first reading, say aye. Oppose said no. No. That passes on a vote of six to one with yours truly voting no. And that takes us to item number 61.

>> Good evening, mayor, mayor pro tem, council. Members, I'm paul lewis with the office of telecommunications and regulatory affairs. This item deals with texas gas service's proposal to increase customer gas rates by applying an interim rate adjustment pursuant to the gas reliability infrastructure program of the texas utility code. Also known as the grip, this statute allows a gas utility to recover additional invested capital costs and related expenses made during the interim period between their full

formal rate filings with the railroad commission. After a complete and thorough review, our outside rate consultants have indicated that the Texas Gas Service proposal complies with the codes and is reasonable with respect to its plant costs and rate of return. They also found that the schedules accurately compute TGS's grip revenue requirements and associated rate design to cover the customer classes using the rate design methodology that the city approved back in 2008. Current fixed residential monthly customer charge of \$12.62 will increase by 1.62 to \$14.24. 14.24 under the new grip proposal. The commercial monthly fixed charge increase is by \$6.19 to \$29.42. If approved these grip rates will become effective for meters read on or after May 27th of this year. This concludes our presentation. Staff recommends approval of the proposed ordinance granting the rate surcharge for Texas Gas Service.

[14:23:54]

>> Mayor Leffingwell: Thank you. We have several speakers. No questions? Edward Reyes? Edward Reyes? Not here. Angelica [indiscernible]. Susana Almanza. Paul Robbins?

>> Good evening, council. Whoever called this automatic rate increase process a grip had a healthy sense of humor. This is a 46 percent increase in customer charge between 2008 and 2013. Inflation was eight percent. Inflation adjusted that's \$45 a year over inflation adjusted over the inflation adjusted 2008 customer charge. Two-thirds of the increase in the last year's grip increase is related to mains. How much of these mains, how much is related to growth? We have gone to 100% capital recovery fee for water and wastewater. We are considering the same thing for electricity. If we do this for natural gas, will it lower floodgates. I also want to repeat what I have said in the past about past grip increases or past rate increases. The most recent rate increase for Texas Gas Service was pretty much all in the customer charge and not in the volume. This is onerous to the poor and discourages conservation. And I look forward to anticipation when we can change the actual structure. Good evening.

[14:26:17]

>> Cole: Thank you, Mr. Robbins. I believe that was our last speaker.

>> I think I missed it. I stepped outside. Edward Reyes.

>> Yes, sir.

>> We've been together all day. I took a little break. [Laughter]

>> Thank you guys for listening and thanks for dedicating this time and allowing us to speak. And thanks for hopefully listening with an open heart and open mind and experience that we all had to go through, so when our city flooded we all had to learn very quickly and learn what was right and what was wrong and how to approach it and who got left out, who got left behind, left on routes. So I hope today, tonight, even though it's been a long day, that your heart is open to our community again at Dove Springs. So I want to start by saying that I

-- I want to support this buyout to happen as quickly as possible.

>> Mayor Leffingwell: You're on the wrong item. [Laughter]

>> I've been here all day.

>> Mayor Leffingwell: What's your name?

>> Mayor Leffingwell: Edward Reyes.

>> Mayor Leffingwell: Yeah. This is about a gas

--

>> we do not want the gas rate. [Laughter] we do not want the gas price rate. [Applause]. So I still hope your heart's open. [Laughter] you know, they say a laughter is good for the soul so I'm glad we started off on the right foot, and we do not want the gas price raised in our city. Thank you.

[14:28:27]

[Applause].

>> Mayor Leffingwell: Angelica noelleia.

>> Hello, evening, mayor and councilmembers. Everyday I work with individuals that live beneath the poverty level. I've got a number of families right now who are living without electricity in their homes because they cannot afford the rates that have gone up numerous times. And to see the gas rate go up it would put them in even more danger of not having hot water, not having gas to cook meals for their children. A lot of these individuals are living on the snap income that they get and they try to stretch their budget by buying food that can be prepared on a gas stove, which most of them have. And the community right now, they can't survive with higher rates. You have to make that decision on whether you will pay that bill or put food on the table or gas in your car to get to the job that you're stretching that paycheck for. I know that the gas company says they need to raise their rates because they're not making enough revenue. I don't see that it's true. We had one of the coldest winters we've had in a very long time. So I know that gas was used. They're getting revenue. Any rate increase to the texas gas service would be put on the backs of the people living below the poverty level as well as the working class individuals. People deserve a right to be treated with dig any. Have them pay for it with money they have not is not right. You should not be paying that when you're making \$60,000 a year in order to have gas and heat to cook with. We have seen the electricity rates go high. I implore you councilmembers, do not put another burden on the working poor and the individuals living under poverty level. Thank you. [Applause].

>> Mayor Leffingwell: I guess that's all the speakers that we have. So I'll entertain a motion on this item. Councilmember spelman.

[14:30:33]

>> Spelman: Mayor, I had a question first. Larry, you can answer this question. That would be great. The city gave a price of raw natural gas has gone down by 30 percent since 2008. What's happened to your prices since 2008. Mr. Robbins suggested they have gone up considerably.

>> Larry graham with texas gas service. In addition, there's the cost of the commodity itself, and that's a pass-through. We buy the gas from a third party and charge the customers what we pay. So the last speaker was correct, it was a cold winter. We don't benefit from that, the gas suppliers do. But we don't. And there's also on the volumetric rate, as the volume kicks in, rate goes down. So I don't know if that answers your question, baugh back to the gas. You're right, the commodity price has been very stable since 2008 and that is reflected in customers' bills. I think in the backup you can see we were asked to compare our bills to other natural gas providers in the state of texas. I think we have the lowest of the

five. Even after the increase we'll have the lowest of the five. San antonio, dallas, even atmos that serves most of austin.

>> Spelman: I'm looking and there are a bunch of prices for natural gas which are published by the u.S. Energy administration, which is a website I'm looking at. I'm looking at the city gate price. Is that more or less the price that you are buying and then selling it to customers at?

[14:32:36]

>> It's actually called for us the index at the houston ship channel and then there's basically a factor of what it costs to deliver here. I don't know, but

-- it's adjusted every month. I believe for the bills customers got in the month of may it's somewhere around 50, 54 cents a ccf.

>> Spelman: Okay. They're quoting in slightly different terms. I think it's per thousand cubic feet. Is that the same thing for ccf?

>> A thousand cubic feet

--

>> Spelman: So I multiply it by 10?

>> Correct.

>> Spelman: If all you're doing is passing through the houston ship channel plus transportation costs to the customer as part of the bill, I understand that. That part has probably gone down in the last few years. Why if the cost of gas has

-- the raw material has gone down, why might your volumetric charges have gone up or your base rates have gone up?

>> Okay. What we're asking for today, the grip, what it is is it's to recover the net increase in investment. So we've invested in our system in 2013 and this is an interim in the rate cases. It's a way to recover the increase in the net investment. We earn on the value of our system, which essentially is the pipes and the meters. So we increase the value. This is to recover what we invested in 2013.

>> Spelman: Why did you need to invest in the system in 2013?

>> Mainly to replace old pipe. We are regulated by the

-- for safety by the railroad commission and also the federal government. There are different mandates.

We have to inspect and replace pipe. Part is related to growth. It has to meet certain amounts of

-- an economic model before we do that, but most of this is replacing old pipe for existing customers. I think 80 some percent of it is growth of this dollar amount was growth and safety, which is replacing old pipe. The majority of it is replacing old pipe.

[14:34:54]

>> Spelman: How do you know which pipes you need to replace?

>> It depends on the type of pipe. We do leak surveys every year. We dig up pipe. We see where leaks are. Over time there's different types of pipe that

-- different areas, different types of pipe and there are pipe that we're now trying to replace that put in more modern pipe and to catch up central austin has older types of pipe that we're trying to replace

mainly for safety reasons.

>> Spelman: Our water department has said there are water pipes to measure the water pressure and identify the source of leaks. Do you have something similar for that?

>> They do that more for transmission. More of what we have is distribution. We'll look at leak records and when things have broken

-- we go out and dig up and test and check lines. So we have programs that we're constantly evaluating each year to the feds. We have to give a plan based on what we feel are our greatest safety concerns and how we're going to address those.

>> Spelman: Very, very roughly, what percentage of pipes do you have to dig up every year?

>> Of our system?

>> Spelman: Yeah.

>> It's hard to say. I can get you that information. I don't know. What is happening over time is that we're replacing the oldest pipe and at some point we're going to get to the point where we have new, for example, poly pipe that lasts longer and doesn't corrode. There's steel pipe that we're concentrating on that we have to get out. So that's where we are right now with this.

>> Spelman: Okay. And even after taking out the old pipes, replacing them with new poly pipes that are less prone to leak and last longer, you're talking about there's an increase in your cost, not in the cost of the raw gas itself. That's just a pass through. And that's still keeping your prices to consumers lower than those of who? Who is your comparison market here?

[14:36:57]

>> I believe it was atmos, that serves customers in dallas. I believe it was atmos, which also has some customers in austin and williamson county. I think center point in austin, and the city owned utility, gas and electric utility in san antonio.

>> Spelman: So our gas prices are still going to be cheaper than houston, dallas and san antonio?

>> The average monthly customer bill will be, yes.

>> Spelman: Okay. Thank you very much.

>> Cole: May I have one follow-up question? Can you tell us what the increase would be on an average customer's bill? E so the average increase is \$1.62. And I believe that the average bill is somewhere -- \$30 a month. So that's what the customer pays on average, which includes the commodity and our piece. So we're going up 1.62.

>> Cole: Okay. Thank you, mayor.

>> Somewhere in that neighborhood, correct. And I apologize, it's in here. But that sounds about right.

>> Mayor Leffingwell: I'll entertain a motion. Councilmember spelman moves to close the public hearing and approve. Seconded by councilmember morrison. Councilmember martinez.

>> Martinez: I just want to ask a clarifying question from staff. Because they've met all the requirements, what is the effect if this council rejects this request?

>> We will run into that at a subsequent hearing with another gas company. If we rejected the request, I believe

-- and I can't say for certain because I'm not texas gas, but they have the right to appeal that rejection to the railroad commission. And what our outside attorneys tell us is that when you go to an appeal with

the railroad commission against the gas company as a municipality, the gas company has the bigger stick. So we would not only face the cost of fighting the appeal, but the chances of prevailing would be less than great.

[14:39:23]

>> Martinez: When I look through the backup and see all of the other cities that texas gas serves, do those cities each have to go through this process or is it only this body that makes that decision do them to raise rates?

>> We do it as a coalition of cities. And basically the recommendation from the sharing the cost of the study which we are reimbursed for, that recommendation is then passed along to all the coalition cities. For example, I think bee caves approved the rate increase last night.

>> Martinez: That's my follow-up question is which of the cities have adopted?

>> Right now I know bee caves has. I'm not sure about the other, but they will before the extension expires.

>> Martinez: I think larry wanted to add something to that.

>> Paul was right. Cities in texas both have authorities in their jurisdiction. In our service area, which includes 90 something percent of our customers in austin, but the other eight cities, they do have to approve this. I believe three of them have so far. One of them will take no action and let it go into effect and the other ones are scheduled between now and the end of may. Paul is right, we appreciate the fact that they work with the city of austin because it's one service area and we have to have the same rates for everybody.

>> Martinez: So paul, have we ever had a time where we've rejected their request and gone through the railroad commission appeal process?

>> Not on a grip filing as far as I know.

>> Mayor Leffingwell: All in favor of the motion say aye. Opposed say no. It passes on a vote of seven to zero. Okay. So that brings us to our 4:30 items. And we will if there's no objection, council will take up item 11 first. It has no one signed up to speak. Councilmember martinez moves approval. Seconded by councilmember morrison. And that motion is to approve the negotiation and execution of legal services contract. All those in favor, signify by saying aye say aye? Councilmember tovo?

[14:41:45]

>> Tovo: I know we've gotten questions about what this is for and it's my understanding that staff have prepared a statement about it. So I would offer that to anybody who is interested. That if they want to learn more about this, we've got the information for them.

>> Mayor Leffingwell: All in favor say aye? Opposed say no? It passes on a vote of seven to zero. That brings us to item number 10. It's my understanding that we have

-- we have 101 people signed up to speak. We have

-- my understanding is we have an agreement that testimony will be limited to one hour. And those wishing to speak have provided us with a list in order. So we'll go to that list. First speaker is bob nix for 15 minutes.

>> Mayor, councilmembers, thank you for your time and your service. Do you have a presentation you can put up? Mr. Mayor, my understanding was I could go over 15 minutes. Is that incorrect?

>> Mayor Leffingwell: You're signed up for 15 minutes.

>> Okay. I can't go 20 then. I wanted to make sure I understood. The graphic you see on the screen is a suppressed 2013 hiring process results. This information has been available to the city since august of last year. An email was sent to chief kerr and her staff and some of the legal departments, talking about in summary the results and how good the process was, how valid it was and how there's no adverse impact. This information was suppressed from council, it was suppressed from the public and this is the first time anybody has assembled it in a way that people can look at it and see what results actually were. If you look below the double line, below the 2013 numbers, you will see the last 10 years of hiring processes for austin fire department. For african-americans we averaged about over the last 10 years 4.25 percent. For hispanics about 17.24 percent. And minorities over the last 10 years austin fire department hiring process averaged about 27.02%. What I want you to look at are above the double line now. Those are the 2013 suppressed results. And because we don't know the numbers that actually sit in the class, we have broken it in different strata, the top 100 in the list, the top 175 on the list and the top 200 on the list. Now I want you to compare the yellow numbers at the bottom, the 10 year results that we had from 2013. As a sidebar before we go further, this is suppressed information and this is the information that the doj and the city management wanting to forward with a consent decree on. The female demographic has stayed about the same, about 10 to 12 percent, but the african-american demographic is incredibly better. We're going from 11 to 14 percent, which is higher than the reflection of the community. Compared to four percent over the last 10 years. The hispanic number, 17 percent or less the last 10 years is anywhere from 29 to 31 percent. Then you look at the culmination of the results even more staggering. 27 percent is the best we could do over the last 10 years. In the process for 2013, 51% plus. That doesn't include caucasian females that bring it even higher. Why are am I trying to illustrate this to bring it out. The 2013 process is the result of the ideas that the association brought to the table from nationwide research on best practices. Almost every idea that created these results from the recruiting strategy to the hiring process themselves were brought to the table by the association. In chief kerr's defense she did okay these ideas and we worked very collaboratively during that phase. What's baffling to me, just utterly baffling to me, is why these results were suppressed when they were remarkable not just locally, but nationwide. And why are we trying to get a consent decree on them. And why are we trying to make sure the firefighters as mr. Ott, mr. Mcdonald said over and over, will never be a part of the hiring process again even though we co-authored the best ideas in the history of this department. Those are the questions we'll be exploring through my presentation. Go ahead. I want to go with you a couple of minutes that you guys have heard about the ascent decree.

[14:47:35]

>> Consent decree is can required under the law. That is not true. The d.O.J. Is an investigative group, a bureaucracy that comes forward with opinions. The last dissent decree I can find was in garland, texas and was filed in 1998. The city of austin posed it. Same sort of things were alleged, rank orderness and the exact same litany of items were alleged. The city of garland decided to oppose it. The city of garland prevailed in that case and the case took about six years. This is why we have an alternate proposal on

the table that we really think needs to be considered. When you go to federal court nobody knows for sure what's going to happen, but you know one thing, it will be tied up for years and years and years. So it's not required the dissent decree is not required and the legal realities certainly don't require it. Council must vote yes on the consent decree so fire department hiring can start immediately or it will harm service delivery. The truth is a yes vote will probably ensure that we will have five or six years without hiring. If you guys vote yes today, within a month the d.O.J. Will probably be filed within district court for the dissent decree with your approval. A.F.D. Will intervene. I know some of you have been briefed that we will not achieve legal standing. Nothing will be further from the truth. You will not find any case allow law in the nation where associations were denied legal standing in a situation like ours. Our attorneys, I assure you, are well versed in this and they assure us with great confidence that this will be something that will be achieved. Within two years the case will be heard at the district level. If the city prevails or whether we prevail it will probably be appealed at the fifth circuit. So now you're looking at within a four to five-year period. Within a four to five-year period the fifth circuit will probably make a ruling and whatever the result that ruling is within five or six years will probably begin hiring again. This can be avoided, we're very close. 2012 we're saying exactly the same things. The city caused some problems with the length of the exam, some of the cut score decisions that the city made outside of the contract which created disparate impact or discrimination. There needed to be true up on the numbers to make whole the folks that were harmed. We're agreeable to that. 2013 is a different case. The results were remark only not just on a local, but national level. The african-american result and the top 300, the top 300 of a ranked competitive list with 5,000 people applying had almost zero adverse impact at most of the strata. That is remarkable on any level. If we vote yes the assumption is we will hire firefighters. Firefighters enjoy as many city employees do a very rich benefits package. So if 1.0 recommends

- represents your regular salary, and then a certain percent represents your budget
- excuse me, your benefits, our benefits are about 1.3, 1.4, 1.3, 4 to 1.33 percent of payroll. So in other words, about 33 or 34 percent of our benefits packages is what is cost to payroll. 1.34 is about the full cost of hiring an employee. When you're working for straight time and your benefit package is a decent benefit package, your budget will not be affected negatively by paying
- going into overtime model. I can spend more time with analysis with the council on this, but I can assure you it will not be a harm to the budget. What the budget does do is they do this thing called vacancy savings where somebody leaves, they take a certain percentage away from the department. You would need to leave the department whole and not take that away, but if you budget 150 million you can stay within 150 million with an overtime model as long as you don't invoke the vacancy savings. The firefighters should not be stakeholders in the hiring process. The whole reason that civil service law was created
- it was contemplated that crown anyism, political indecision and decisions were not a way to have a good and efficient department. When we negotiate those rights away we negotiate them not only for the firefighter, but for the citizen. So we need to make sure that we're doing a good job and making sure that we don't allow undue political influence in any of those processes. The firefighters involvement is good for that reason but it's good for another important reason. Nobody knows the job of a firefighter like a firefighter. What we've been able to do with our results is produce the two things that are hard to do together. It's really, really easy to hire top-notch firefighters. You give them a really hard exam. You'll get great firefighters and studies for the last 40 years that will show that. But we also know that exam

will produce great adverse impact within the department and that doesn't meet our goal of diversity. Another thing to do is good get diversity. We can do that by getting a coin flip and hiring people at random which is what you do when you invalidate a process. It gets to point where it becomes a random selection of people. What's hard to do is do both at the same time. You have to have a predictive exam and reduce adverse impact. Remember the chart I showed you first? We achieved that for the first time in the history of this department, but rather than being thanked or just preserve the process, the city manager is trying to get a dissent decrease because of it, we're at an impasse and the firefighters are being punished for it. So we recommend you vote no on the dissent decree for all these reasons. I want to show you another thing. I'm going to talk about what happened in the 2010 process. This is why the firefighters need to be involved. In the 2010 process

-- this was chief kerr's first process

-- the city manager's office invalidated the exam by changing the original recommendation of the vendor. That was proven in arbitration. We spent about \$80,000 in analysis and it was proven. I can say that without I am pruned because it was proven. Afa ash traits and wins. False evidence was submitted by the city in arbitration testified upon. False evidence was entered into the arbitration and testified upon. Chief kerr's decision not to budget for the

[14:54:49]

[indiscernible], she has an idea of using community volunteers with no backup plan. With less than a week to go before everybody was flying in across the nation, we had three volunteers and we needed 100. She scramble and hired goodwill employees who as an aggregate group did not do a great thing of evaluating. For one thing they were only given two hours of training. This resulted in a 17 point variance between the panels which really meant to get the job depended upon the panel you were put on. The test was leaked to the media and the ensuing investigation shows that over 50 people had unfettered access to the exam. They were all non-uniformed. There were ununiformed people who had access. And the seniority hires were misscored and that was something the association caught and fixed. The conclusion is it was a terrible process. The results were horrible and the more we've been involved with the process the better the results have been. They said if you guys don't give us unfettered hiring, we will wait for somebody to file the complaint. We will lodge a weak or no defense and we will strip this away from you so you will not be involved. That appears to be exactly what is happening. The 2012 process, the one where the city made the mistakes, the one where the city gave the wrong test time, you think about spending a million dollars on a process, you don't give the right test time. Although you've been briefed, but that's not the reason it was invalidated, you can reference the anita french report you guys paid \$70,000 for and it's very clear in her report that that was the reason it was invalidated, just because the narrative changes doesn't change the facts. We believe that this has been an imperative of the city for a long time to get us out of the bargaining. You sat at the table, you went to impasse, you punished it for good results and we're fed up. This is our offer. So if the process is so good, why are we not talking about a good process? Why are we suppressing results? The only conclusion I can come to is sometimes the way you solve a problem is you take away everything it's not and you're left with what it is. If we were talking about hiring and we were concerned about hiring demographics and diversifying this department, we would have conversations like these are awesome results. How do

we preserve these good results? How do we improve in areas that we need to improve? But instead the information was suppressed, kept away from the council and kept away from the citizens. So what it is about? It's about power, about trying to harm the firefighters, about it's about collusion, about making the d.O.J. Comfortable to come in and come to the conclusions the city wants, hoping the firefighters will not intervene. This is our offer. Our offer, the alternative solution, stipulates a dissent decree for 2012 that brings in the 30 priority hires and make sure they go through a predictive process.

[14:58:04]

[Buzzer sounds] it results

-- we say you can hire through 175 on the list

--

>> Mayor Leffingwell: Please conclude, mr. Nix.

>> We're done?

>> Mayor Leffingwell: We're done.

>> Thank you for your time. I want every firefighter to stand up and be recognized that are here tonight. Thank you all for your support in being here.

>> Mayor Leffingwell: Gary Stewart.

>> Martinez: Mayor, I have a question of mr. Nix.

>> Mayor Leffingwell: Councilmember Martinez.

>> Martinez: Bob, I have a question for you. I was screaming, but you couldn't hear me. You can pull that last slide back up? I didn't get enough time to look at it.

>> Are we still on the clock? We have several other speakers?

>> Martinez: No. This is a question for you. Can you finish the point you were making about this slide, please?

>> I'm sorry, what's the question.

>> Martinez: Can you finish the point you were making about this slide?

>> Yes. Our alternate proposal takes the great relative humidities from the 2013 process that the association was so involved in, allows the city to hire the top 175 cadets with no time limit. That way we're not giving you a pig in the poke. You know exactly what you're going to get and the demographics are remarkable. These are unmanipulated results. These were the actual results of the exam. To that we would add the 30 priority hires through a consent decree process to make sure we limit city liability and that we bring them in under a legal manner. And when you add those results together it is remarkable. We would be bringing in 30 african-americans. We have a total of 43 right now in our department. We're almost doubling that component. It's about 75 percent more, I think.

[15:00:22]

[One moment, please, for change in captioners] 6

>> Martinez: Thanks.

>> I have it to y'all, though.

>> Thank you, bob.

>> Any other questions.

>> Mayor Leffingwell: Council member spelman?

>> Spelman: I agree with you, bob, these are really good results. I can see the results and you made a very good case for that, and during the process, it produced very good results and why would doj be interested in taking us to court?

>> In my opinion, I believe there is a legitimate complaint filed in 2012 and the doj developed a relationship with the city manager and the city manager's office. I think they were encouraged to investigate 2013. I think they started that process before the results were available, thinking the results were bad again. I think an inconvenient truth occurred where the results continued to be stellar and I think they continued on thinking the association wouldn't intervene. I don't have proof of this but that's what I believe.

[15:02:25]

>> Spelman: Whether the association would intervene or not but there has to be a reason that doj would continue to prosecute a case if we have looked like they solved a problem or come up with a set of procedures that look like they solved a problem.

>> As you know the doj win some and lose some and they don't come close to winning every case. They look at their legal realities and the support they think they have from certain entities and decide to go forward. I can assure you they aren't going to win this case. The validity by the doj estimates are .4 and .5 for this exam, which you know is a very robust exam. They tried to show by removing 3-5 college and components it changed adverse impact. We spent about \$6,000 on a statistical analysis study showing there is no statistical significance between their panel test and our panel test so though they kept looking for ways to prove there was some problem with it, they couldn't find them. I think with the city's encouragement, they continue to go forward and that's, again, my opinion.

>> Spelman: So the general story is 2012 was a screw up and everybody agrees 2012 we did not get anywhere near the results we wanted, anywhere near the results of 2013. Began investigation, 2013 happened, it was much better and began to move forward on the investigation and on the prosecution because they didn't think you were going to intervene?

>> I didn't hear the last thing you said.

>> Spelman: I said didn't think the union was going to intervene?

>> I think that the city manager's office didn't think we had the will to intervene and probably encouraged the doj to continue forward and I think it certainly would with encouragement. I think it's become personal. I think on several attempts by the city manager's office to remove hiring from us were unsuccessful. I think it's become very personal with the city manager's office and so I think they were motivated to collude, if they could with the doj, and I think they did. I think we will find that out in federal court. I think it's silly to go that far to find that out. Let's stop this now. Let's put the process that we ever had in front of us and let's start hiring cadets.

[15:04:41]

>> Spelman: Okay, so the general

-- [applause] (cheering and applause).

>> I didn't mean to do that, sorry.

>> Spelman: That's quite all right. With this audience, almost anything you say will get applause.

[Applause].

>> Spelman: I should talk before this audience more myself. [Laughter] so this

-- I almost lost my train of thought here, but the general argument is the 2013 process is fixed. I agree with you completely. We should hire cadets as quickly as possible. Anything I do and anything members of this council do is going to be based on the assumption that whatever we do is going to get us to a position where we can hire cassettes off a list like this or a process like this as quickly as possible.

>> And if I could answer that, I think the reason why, if you voted no it would be a good idea is I believe if the doj was not encouraged, I believe they would break away. They would look at their legal realities for '13, realize they don't have a good case, break way from '13 and gravitate towards '12 which everyone can support and we can move 13 back in the collective bargaining and we can hire the folks within a couple of months. That is a lot of assumptions but I believe that's what would happen.

>> Spelman: Basically if we said no, they would back off on 13 and let us go forward?

>> I believe they will reassess their legal realities and back off.

>> Thank you, sir.

>> Cole: Mayor, I have a question.

>> Mayor Leffingwell: Mayor pro tem cole.

>> Mr. Nicks, it is my understanding that you had some conversations or meetings with doj.

>> Conversations with whom?

>> Doj.

>> We met with them in mediation in march, yes, ma'am.

>> Cole: And so from your discussions with them in march, do you have anything to add to what you told council member spelman about why they would still be pursuing the case in connection with 2013?

[15:06:51]

>> They started out the conversation saying they thought the '13 process was very good but they thought they could make it better. They laid out a plan of removing three out of the five components and redoing validity coefficient. When they did that the validity coefficient was very close to being the same. The reason was because the weighed is 20%, unweighed is very different but the weighed is about the same. However, they removed three important components, they removed spatial orientation, which is the number one important item on the job analysis. They removed map, and they removed mechanical aptitude which is one of the top five on job analysis. To make a claim you have equally valid test when you remove some of the most important cognitive items that don't have what they call positive manifold, positive manifold where one item predicts the other, those items aren't predicted within the remaining items in the panel. To make the claim as equally valid, it doesn't hold up to the argument of content validity. I think they realized we know that and they kind of backed off. Then they went into adverse impact by removing the three and reducing adverse impact. At 159, they say you get 79 more minorities and we pointed out 175 we have more minorities with the five panel. The truth is every test in the nation has adverse impact. You can point to a case in a list and say there it is. That's not

how it is done in the court. You do statistical significance study and see if there are statistical differences between the groups. We did the study and there was not. When we gave it to the doj, they stopped the manipulation of the cognitive component, said that '13 could stand the way it is but we need a consent decree anyway, think about, they want to hire 13, 90 people but they still want 4-8 consent decree. It doesn't add up.

>> Cole: Thank you, mayor.

>> Mayor Leffingwell: Council member riley.

>> Riley: I want to make this very simple, bob. The problem

-- as the association sees it, the problem was with the 2012 process. There were problems there. The association agrees with that and the association is agreeable to the remedy that is contemplated in the settlement before us with respect to the 2012 hiring process? And with respect to 2013, that's another story. 2013 process was actually a very good process and the association is proud of that and what the association is

-- takes issue with is the process that's proposed for a consent decree that would entail ongoing review based on the 2013 process, but with respect to the 2012 process, y'all are on board with the settlement as contemplated by the agreement before us today?

[15:09:37]

>> Yes, there is one little thing we would additionally like on 2012 and it is something we could settle now, the though it probably wouldn't. The city council briefed the public and said it was the city fire contract that caused the problem, and it wouldn't be the truth, the apology would be in order but stop perpetrating these myths.

>> Riley: Okay. In terms of the

-- [applause]. (Cheering and applause).

>> Any other questions? Thank you. Will all firefighters stand for recognition, please? [Applause].

>> Mayor LeffiCARRIE Stewart. Four minutes.

>> Thank you, good evening. My name is carrie stewart and I am a fire specialist and 14 year member of the austin fire department. Over the last few weeks, promotional tests have been administered at afd and I would like to read a passage of one of the source texts entitled from buddy to boss from case sergeant. Those who went through the recent promotional processes are fortunate the study materials were assigned with so much thought as the education gain from reading them is already applicable to what we are dealing with as a community. This book was assigned to prepare future drivers and lieutenants for those positions within the department. There are a few givens in the fire service that have not changed over the years. First, because the job is a muscular endurance and cardiovascular sport, you must be in shape enough with upper body strength, leg strength and cardiovascular strength to support your team and be effective and fire fighting is a team support and sometimes it can't be in team deployment in staff employment and a single week can affect one week and if you put one weak player among six players amide 6 you might be able to succeed but one weak player with two or three, amide battle, you will be in trouble. Third you must have the trust of your peers and subordinates and have the reputation of abled firefighter. I don't believe in lowering written exam or physical standards or criminal background requirements to en this represents the community. We should raise the entrance

bar for the individuals to give us balance the government seeks. For years the fire service has been hammered as a lily white male dominated organization, and statistically this is true. Furthermore, in some instances, qualified candidates were kept from joining because of race, creed, color or gender. Don't get me wrong. I do not sanction this. No one should be held back because of race, creed, color or gender and every american should be given the opportunity to succeed in our society. However, compromising our standards corrects one problem by replacing it with another. Everybody has to earn what he seeks, not be handed appointment on the basis of standards designed to balance an organization rather than attract equal filled candidates.

[15:13:09]

-- Qualified candidates. As member of hiring and vendor selection committee that worked with city officials to finally reach a goal of a process that provides both qualified and diverse candidates, I hope that we can continue those efforts instead of choosing a consent decree that will negate those collaborations. Thank you. (Cheering and applause).

>> Rick pope. 3 minutes.

>> Good evening, thank you for this time. Both of you I had the pleasure of speaking with the last couple of months about the consent decree, bob nicks and myself have been the two from 975 to talk to the doj and get the information first hand and not second nature. What I am asking is I want you to understand how long

-- we have been half a decade trying to get to this point where we are, which is a 2013 list, this hiring list. We started off in

-- in 2009 and went through kansas, missouri and memphis, tennessee in order to find

-- we did a nationwide search in order to try to find the best practices for this fire department that we love, and that we work for and that we admire and want to be a part of and in that request, it took us all over the nation. We finally found the best practices. We brought it back to the city, and we put it into a hiring process. Through gaming through the city, the 2010 and 2012 list were, for lack of a better term, screwed up. When the gaming finally stopped with the 2013 list and we were able to actually use the test how it was designed, we got the best diversity this city ever has seen, with no gaming or -- or mingling. What I would like to do today is to ask you all to have the moral courage in order to do what is right and vote down this consent decree. We do not need it. As chief nicks said there is an alternative on the table. We would hope that you would discuss that and consider it, a consent decree going forward. It's not what we need. We've done

-- I spent a half a decade with my hiring team looking for best practices, as time away from my family. That's not going to soccer practices. That's missing this event, that event, making my wife mad because I am doing union stuff all the time. We finally got to a place in

-- in our history where the best diversity and now we aren't being allowed to use it. I think it's a shame but I ask you to have the moral courage in order to do what is right tonight. Thank you very much.

[15:16:06]

(Cheering and applause).

>> Mayor Leffingwell: Before you start, I want to say a couple of words. I want to ask you as a courtesy out there to hold down the demonstrations. We understand your enthusiasm that has been demonstrated amply here, but as a rule in this council chambers, we don't allow anything except applause. Whooping, yelling will not be tolerated. I want to ask your cooperation gentlemen to gentlemen to help us out with this. It does not present you in the best light when you do this. Becky brooks, you have three minutes.

>> My name is becky brooks. I am a retired captain with the austin fire department and I have an additional perspective this evening. In 1978, long before most of the firefighters behind me were even born, I was working full time going to school. I heard about the shift work firefighters work and I thought that would be a great job. I applied, I took the written test. I passed the physical. I got my letter. I was hired. I was very excited, very proud. The first day of class, I found out I was a consent decree hire. What? What was that? I didn't know. How did I find that out? My classmates were quick to tell me that the only reason I was hired was because I was consent decree hire. I wouldn't be here if it hadn't been for that separate list. I was embarrassed. I was angry. I was ashamed and I could do nothing to get rid of that label. Ever. I could never remove it. I wasn't given the opportunity to get the job by myself. Maybe I would have been hired anyway. I won't know. No one will ever know. I just want to ask you today, tonight to make sure, to please don't let any other future firefighter suffer the shame of that label. Let them earn the right, the privilege to be an austin firefighter. Thank you.

[15:18:22]

>> Mayor Leffingwell: Thank you. [Applause].

>> Mayor Leffingwell: Cook steel. 3 minutes.

>> Good evening, city council. My name is christopher steel. I am president of the san antonio professional firefighters association. I have been a chief for 15 years. I have been a firefighter for 29 years. I am on my sixth term as president and I was also president of the african-american association. In san antonio, we have always looked to austin to look at the best way to achieve diversity, because we know it's a difficult subject. We know it's a difficult problem to tackle. We also looked at austin and the things that they have done and tried to emulate that to get more diversity within our department. Y'all were always seen as being on the cutting edge of investment of time, of money, of resources. You want to get that problem solved. I can just tell you that through all of this time, you know, in having worked with bob nicks, I mean, it's at the highest level of achievement that I have ever seen. The guy is knowledgeable. The time that they put in, like the vice president greg pope, has said. It is unheard of. We spent \$50,000 in the city of san antonio for recruitment and diversity. This is the model, and so having said that, you should look at it as a failure of what you are doing, the feds have to come in and tell you how to do it. I don't believe that that's the case. I believe that the doj has reasons why they do things. They could be politically motivated. There could be a lot of different reasons. But at the end of the day, I know that the leadership in san antonio, we work because we don't want the doj to come in. We don't want to be on the consent decree. If I am a city manager, when I go in and apply for my next job

-- and he is going to have to at some point

-- do I go around and I say, hey, part of my resume is I got a consent decree in the city that I was

running? No, you hide that. And so I

-- it just is hard for me to believe that you would consider that as a success. It is probably a failure for us, working together is always the best way to go. Creating win win situations, not having all of this. These are the people who put it on the line every day. You stand next to them for photo ops, you tell everybody you put public safety as a priority, and then you don't let them sit at the table. You don't let them be involved in something that is going to affect each and every one of them. And the last thing I would say is, if you go through this consent decree process, all of the media is going to affect the business that comes to austin.

[15:21:48]

[Buzzer alarming] it is going to lower it. People are not going to want to come when there is controversy with your public safety.

>> Mayor Leffingwell: Thank you. Your time has expired.

>> In closing, if you care about the citizens of austin.

>> Mayor Leffingwell: Your time expired.

>> Then you would take care of the business in house. You would not allow this consent decree to move forward. You would solve your issue like adults.

>> Mayor Leffingwell: The next speaker is dylan martinez.

>> And (indiscernible) at the negotiation table. If you don't do that, then you have advocated your role as leaders. Everybody is a great

--

>> Mayor Leffingwell: Mr. Steel, step back.

>> And I hope that you take care of that issue.

>> Mayor Leffingwell: Step back.

>> Yes, sir.

>> Mayor Leffingwell: Now. [Applause].

>> Mayor Leffingwell: I show you respect, unfortunately, you have not returned the favor. Dylan martinez. One minute.

>> I love my daddy. We only want the best firefighters. Thank you.

>> Mayor Leffingwell: Is that olivia heaton?

>> Yes.

>> Mayor Leffingwell: Okay. Laura presley. 4 minutes.

>> Hello, mayor, mayor pro tem, council members, I am lara presley, president of the windsor hills neighborhood association. I am on restore rundberg team and 20 year austinite and businesswoman. These amazing, brave, and dedicated firefighters deserve so much more in transparency than what they have received throughout this process. The diversity results of the 2013 application evaluations are the best the fire department has ever produced in the last decade. Based on the data, the consent decree for 2013 should be voted down. We need to get this issue behind us and our community -- behind us and our community as soon as possible and begin addressing the root cause of why we really are here today. Your role as a council is to set policy and performance expectations and hold your staff accountable and their departments accountable to work together and present

-- and prevent these displays and these power struggles that we are seeing today. You need to do this for the good and safety of our city. The big picture and elephant in the room is the lack of true collaboration, lack of transparency, and lack of being the best managed city. And this is evidenced here today with over 5 hours of citizen testimony that asked to be heard. Our fire department deserves more. They are a wonderful group of caring men and women and you need to exercise every leadership tool in your tool box. We need you to step it up and use your direct leadership and your indirect leadership skills to fix a severely broken system. This unnecessary consent decree should be voted down. I want to propose that you guys direct the city manager to hire resources to develop action plans to improve the trust and teamwork of the city manager's office with the leadership team of the fire department and the austin firemen's association union. This is in your power and you just need to do it. A lot of stuff is broken here. People would not be here tonight taking time away from their families to ask you to do your job and to be a leader. You have a lot of things in your tool box. You need to use them. Thank you.

[15:26:18]

[Applause].

>> Mayor Leffingwell: William cannon, three minutes.

>> Mayor, council, thanks for holding a session tonight and listening to the voices that are out here. I know we don't have time to hear them all tonight but I am sure as you hear from the applause we are on the same page. I amity that and a strong supporter of the fire department. I strongly ask you to vote no to the consent decree tonight. We came here for many reasons and a lot of it got with clerical administrative errors, mixed in with ego and personnel issues and propped up with sensational headlines in the news. As past emt, I stand strong with my brothers and sisters in uniform tonight. The hiring process was overwhelming as chief nicks pointed out tonight, with talent and diversity added to the austin fire department, with first generation american and member of the lgbt community I certainly understand and support diversity issues. This is not about diversity. This is about what is working for the fire department. These folks need to be at the table in the process of what is going on. The headlines tomorrow will read everything is about diversity. This is about hiring the best qualified persons for the job. I don't know about you but when I dial 9-1-1 I want the best qualified, members of my community who are well trained in what they do, responding and answering me and my family. So I ask we all take a deep breath, acknowledge that egos have been bruised, tempers have flared and we stand with the hiring results with the most diversity class that this city has seen. This is a time to roll up our sleeves and have hard conversations with those who may not read past the headline of tomorrow. This is a time for leadership to take those conversations back to the front porch in communities and demonstrate the real story, the real data. The math does not lie. I will leave you tonight with a quote by martin luther king. A gene win leader is not a searcher for consensus but a molder of consensus. Thank you.

[15:28:32]

[Applause].

>> Mayor Leffingwell: Edward reyes. 2 minutes.

>> How long do I have?

>> Mayor Leffingwell: 2. 2. Okay. Let me start by saying thank you to the austin firefighters for the hard work you do and the loyalty you give to our community here in austin. I also want to
-- I want to say that, you know, if
-- if by
-- by somebody starting a fire, you know, it started
-- if you thought that starting a fire would cause these firefighters to run the other way, it was a big mistake. They don't run from fires. They put fires out for a living. They are problem solvers. They seek for solutions. They stand for what is right. You can't blame these firefighters for someone else's mistake. They defend lives and opportunity. This affects my community, the community of dove springs. I am born and raised native here in austin, texas. You know, in south austin, we had a flood and our public safety was at risk and we suffered the consequence because of a system that continues to fail. You know, as an austin item born and raised
-- austinite born and raised, we keep inheriting problem after problem after problem. We don't want to continue to hand down these problems to our generations and generations to come. So I say vote no to this item on the agenda. Support your austin fire department. Listen to the communities of austin. Stand with bob nicks. We support you and I thank you bob and thank you for the association for coming through our neighborhood in dove springs. We needed the help. We were in trouble and you guys were there for us in our community in south austin. Thank you.

[15:30:35]

[Applause].

>> Mayor Leffingwell: (Indiscernible).

>> Mayor Leffingwell: YOU Have 2 minutes.

>> Good evening, council. I am here before you this evening to implore each of you to do the right thing. Decisions by council members should not be done based on a vote to return to office but on doing the right thing. Given I am a businesswoman and my children hispanic, I value protection of diversity in the marketplace. However, diversity of all groups should never be at the risk of hard earned taxpayers, property and lives. District 10 has already to date continued to put on the back burner for immediate fire protection by delaying a much needed fire station, best practice fire mitigation for the balcones preserves encompassing land and homes around it in the jester lakewood area. It is imperative to vote no consent decree so afd can resume needed hiring, that we are not as a city forced to litigious litigation that will be costly to not only afd but as a result costly to us taxpayers. We the taxpayers always end up paying for council's costly mistakes. It would be a mistake to vote yes, since hiring can be delayed as much as 5-6 years and the mistake is not only fiscally irresponsible, costing us millions of dollars but it is emotional irresponsible to men and women that put their lives on the line every day for us as well. It's also civilly irresponsible, by putting at risk the lives of men, women, children and their pets for not having the numbers needed to be trained on the tracks and to cover shifts. Lack of target numbers for firefighters will require paying off duty firefighters overtime. How many of you would want heart surgery by a doctor who has repeatedly being called in for needed rest just because they were shorthanded for good medical care? The same is being asked of our civil servants when we ask them to cover shorter shifts. We need to look at the devastation that happened in california to know 1,000

people had to be evacuated in a moment's notice.

[15:32:53]

[Buzzer alarming]

>> Mayor Leffingwell: Thank you, margie. [Applause]. (Indiscernible). You have 2 minutes.

>> Thank you. Especially I would like to start with, they are asking you to work with them. These are some of the best people we have in our city. When I was 15, a fire truck pulled up to my house at 2 in the morning. I was fortunate to have a fully staffed fire truck, no lives were lost that night. If you do not vote no, you are looking at having more fire department members retire. You are going to have a shorthanded staff, and if, for some reason, someone dies and you put this city at risk for being understaffed, that life is on you and you have to live with that every night. Can you do that? Can you put this city at risk? Can you live with the loss of that life? And if god forbid that happened, would you be able to answer to that family? I give back the rest of my time. Thank you.

>> Mayor Leffingwell: Melissa zone. Melissa. [Applause]. You have 3 minutes.

>> Good evening, council members. My name is melissa zone. I am a resident of crest view and I support the austin firefighters association and that's why I am here tonight. The alternate solution that they have brought before you, the proposed consent decree is something that I support as a resident and taxpayer. The consent decree the city wants to would delay hiring of new personnel and prevent the austin fire department from filling much needed vacancies. The impact of yes vote to proposed consent decree is it will prolong the hiring process another 5-6 years, not to mention the legal fees. This is not just about the numbers. It's about public safety. Lives are and will be at stake. As a minority class myself, I feel that austin firefighters association has made its case, that the mistakes made in 2012 were corrected with the 2012

-- 2013 hiring process. The city needs to own up to the mistakes made in the execution of the 2012 hiring process by the city and its contractor, and that their mistakes along

-- and not the collective bargaining agreement adversely impacted certain protected groups. I fully support the austin firefighters association's position to best protect our lives and property, actions must be taken to correct this situation in the most expeditious and fair manner possible and to vote no to this consent decree is the only thing possible that you can do.

[15:36:11]

[Applause].

>> Mayor Leffingwell: Jay willie. Jay willie. Jay willie is not here. Greg cassar. You have 3 minutes.

>> Thank you. Good evening, council. I am speaking to you today as a long time advocate for both workers' rights and racial equity, so I hope that my brief comments can help frame the consent decree issue so that both the causes of racial equity and the rights to fairly bargain can be weighed today and honored in your decision. I hope y'all maybe ask some of the right questions. We as a city have the duty to promote racial equity. We have the job of making sure that firefighters have the rich diversity of people. We need more diversity in our fire department. The question before you is how are we going to get there, how are we going to deal with that. As we come up with the answer, the city must consider

we have a duty to honor workers rights including good faith collective bargaining, as long as the process upholds the fair values like fair and equitable hiring process. If the city of austin can prove a buying process can perpetuate illegal discrimination, then the city must take action to override such a process but as you see tonight the austin firefighters association have data they say shows that the african-american and hispanic firefighters will be hired in proportion to the austin and employees and so if they are going to hire a racially skilled fire fighting force then the city should not override the firefighters right to collective bargaining, and if it is to show the 2013 process leads to unjust discrimination and I understand you could have information that is perhaps not available to the public. You have been dealing with this in executive session. I understand that. If you have information that would lead you to conclude that, then I would say that the information should also carry considerable weight and I hope that information can be shared with the public so that we can have that sort of debate. In summary we should not take lightly the overriding of firefighters right to bar gone over hiring. If you have facts that show bargaining over hiring process will lead to unjust discrimination, then I understand a vote for a '13 consent decree. But if you don't have those facts and if indeed the association's numbers do reflect strong progress towards racial equity, then do not vote for it. Thank you.

[15:39:05]

[Applause].

>> Mayor Leffingwell: In nicks, are you back there somewhere?

>> Right here, sir.

>> Mayor Leffingwell: At the end of this, just a few more, you are going to have five minutes left, if you want to redesignate that. If you don't, that's okay, but I just wanted to offer it. Shawn ireland, two minutes.

>> Mayor leffingwell, mayor pro tem cole, council members, I am shawn ireland and speaking to you tonight to urge you to vote no on the consent decree. Austin firefighters have provided flexibility in hiring 15 years and firefighters have been more than good stewards of hiring process. In fact, the 2013 hiring process was the most successful in afd history. Firefighters want afd to reflect the unique diversity of austin but allowing federal overreach through a consent decree after successful 2013 hiring process is unnecessary. Mayor leffingwell, mayor mayor pro tem cole, council members f you vote yes on this consent decree, there will be costly litigation, and hiring won't resume for up to 5 or 6 years. Let me just put it this way. Austin's population is projected to double in 10 years, so where at this night, ten years from now, austin

-- 1.6 million people will call austin home, and if these numbers are correct for five or six years of endless federal litigation, we may be facing a city where 400,000 new people live in austin without a single new firefighter being hired. That's absolutely detrimental to not only austin's reputation but the public safety as well. It's extremely dangerous. It's very troubling that we have to come to this tonight, but I urge you to take this chance and vote no so that we can move on as a desirable city and not one that people need to be worried about moving to. Stand with austin's bravest and vote no to the consent decree. Many thanks for your time. God bless austin and god bless austin's bravest.

[15:41:30]

[Applause].

>> (Indiscernible) garza. 3 minutes. 3 minutes.

>> Good evening, I am dealia garza and I am wearing many hats tonight. I am the daughter of a firefighter and a former austin firefighter. I am an attorney for the state now and I urge you to reject this settlement. As a firefighter, I have

-- as a former firefighter, I have imminent knowledge of the history and the relationship between the city and the association. I was on two bargaining teams and I was on the executive team for the firefighter association. As one of the first mexican-american female firefighters in the fire department, I understand the importance of diversity, and as somebody who might be the first latina on the city council, I understand the need for diversity. As an attorney, I know the importance of focusing on the facts, and the facts are this: The city painted this process after a good faith effort by the association to produce a fair hiring process. Another fact. The 2013 process was the most successful process in afd history with regard to job predictability and diversity and the city manager and the chief suppressed the results and the fire association was not able to receive those until an open records request. Another fact. The doj's finding is that. It's just that. It is a finding. It is not a conclusion of law. So this is really about politics, and so I want to discuss this issue about the power of who gets the hiring decisions. I want to remind everybody that it was the voters who gave this association the ability to have a voice in the hiring process. I was a firefighter at that time and I remember standing outside of grocery stores in the erwin center asking for signatures to get collective bargaining on the ballot. And it was the voters who gave us collective bargaining and it was the voters who believe that giving the firefighters a seat at the table was the right thing to do. And let me tell you why. This job is like no other job. As a firefighter, I experience situations that nobody will ever experience. You have a relationship with your coworkers because they become your family. And because you depend on

-- and because you depend on them with your life, as a union leader, I experienced how this union cares about diversity. I know that they do. I was there at many meetings where we talked about how we could improve diversity. We care about

-- but they also care about protecting the integrity of a position of a firefighter. If this association didn't care about diversity, we would totally be fine with reverting back to civil service instead of bending over backwards to find a fair process to yield quality firefighters. And I am so tired of hearing the allegations of

-- in this culture of racism. I never walked into a fire station and felt judged because of the color of my skin. They just wanted to know if I could pull that rack line. They wanted to know if I could carry and raise that ladder. And like I said, for the association, this is about protecting the position and the integrity of the position of plan for financing.

[15:44:47]

[Buzzer alarming] I urge you to put politics aside and vote no on this measure.

>> Mayor Leffingwell: Thank you. [Applause].

>> Mayor Leffingwell: You are designated?

>> Williams?

>> Mayor Leffingwell: No, I didn't call your name, but there are five minutes remaining, if that's the plan. Okay. Five minutes.

>> Okay. Thank you. Good evening. Through the course of my career

--

>> Mayor Leffingwell: What is your name?

>> Mike Williams. There has been ebbs and flow, swings back and forth of periods between harmony and cooperation between labor and management and periods of discourse and adversary between labor and management. And make Captain Brooks feel a little better, my fire service is approaching four decades. There are members present whose careers approaching three decades, still others, two. And you look at this pendulum, what is the variable? The constant with the fire service professionals is dedicated public servants that love their job, love their community and want to serve. So these periods of harmony and discourse, what is the variable? Mr. Ott is my sixth city manager who have served under, so if the constant is dedicated public servants and the variable may be city management to explain these swings of harmony and discourse, perhaps 7 is starting to look like a pretty good number. Thank you. [Applause].

[15:46:48]

>> Council members --

>> Mayor Leffingwell: You have 2 minutes.

>> My name is Farmer Buck. 20 years ago tonight, I was a proud graduate of class '97 in joining the Austin fire department. 20 years of the best job in the entire universe and proud to serve the citizens of Austin. Before that, six years of the Austin EMS. What we are asking, we are asking you for your support, for your understanding of the work that the men and women in the Austin fire department have put in to try to make this the best department in the country. We have worked very hard to take on the challenge of diversifying the fire department. And we have done so. The association, working with management and collaborative effort have brought to you the 2013 process, a process that was unfettered by any actions with people with ulterior motives, that process which brought to you a remarkable, as President Nicks said, a remarkable diversification. We are asking you to be able to use that process with the manner intended under the collaborative agreement, the collective bargaining agreement that we put together. We are asking for you to vote no tonight and go back to work with making this the best fire department in the country. Thank you. [Applause].

>> Mayor Leffingwell: Council, that concludes the public comment period. Council member Martinez.

>> Martinez: We did have one speaker signed up in favor. I think it's appropriate that we would allow that person to give testimony.

>> Mayor Leffingwell: Speaker in favor, come forward. You have 3 minutes.

>> I, too, am an Austin firefighter and have been an Austin firefighter for 26 years and unfortunately I am not going to get the clapping that everybody is going to get

-- [applause]. I really appreciate that. I only need to say to you guys, if you don't think diversity is a problem, take a look at the

-- take a look. That's all I have to say. Whatever the department of justice can assist us with in diversifying our department can be greatly appreciated, as far as I can see, and when Becky got up here

and she said that she was a member of a consent decree, I don't think that there is one time that she didn't go out there and perform her job as a firefighter. The esds have been extended opportunity to come into the austin fire department. Enough of these guys are going to have to take the test to get in. But that avenue has not been extended to diversify our department. We have the I.B.J. Academy. We have the pass the torch and we have other avenues to which you can let those peoples in. If those guys went to the esds and got training and were well enough trained to come

-- to become firefighters in the austin fire department, they don't even score high enough to be hired on the so-called dumb down version of the test. That's why they aren't austin firefighters. But yet they are being allowed in through alternative ways to become firefighters. All I say is, use those alternative ways to diversify this department and, again, if you don't think it needs diversifying, look around. And with these guys, I go in and I risk my life. But not once has anybody ever said to me, leave me in here because I am black or because you are a black firefighter. I don't want you to rescue me. Nor has anybody told them I don't want you to rescue me because you are not black. My goal is and everybody's goal is when the kid goes up there and looks at the fire truck, they should be able to look up there and see somebody that looks like them so they can aspire to be a firefighter. This is a job that everybody can do. This is a job that will reach down and give the guys an opportunity to go into a different economic level than what they are. And this job has helped me become a better person. The people that I help has made me a better person. That's what I enjoy, helping other people. That's what we all enjoy. That's why we all risk our lives. But you don't have to be a genius to do this job. And I do feel that the fire department should represent the demographics of the community which it serves. Thank you.

[15:51:52]

[Buzzer alarming]

>> Mayor Leffingwell: Thank you. [Applause]. Now I am seeing one more

-- is todd palmroy here? Todd palmroy?

>> [Indiscernible - no mic]

>> you are signed up for the consent decree, is the reason I called your name.

>> [Indiscernible - no mic]

>> Mayor Leffingwell: Are there any other speakers. [Laughter]

-- who are signed up and intended to support

-- intended to support the negotiated settlement? All right.

>> Martinez: Mayor.

>> Mayor Leffingwell: Council member martinez.

>> Martinez: And randi dunser also signed up in favor but I think that's a mistake. [Laughter].

>> [Indiscernible - no mic]

>> Mayor Leffingwell: Well, if you want to start naming names, council member, how about wendy cathalt.

>> [Indiscernible - no mic]

>> Mayor Leffingwell: I know but you are signed up in favor of the negotiated settlement. I think that's all I saw. So that's all of the speakers that we have.

>> Martinez: Mayor.

>> Mayor Leffingwell: Council member martinez.

>> Martinez: Thank you, mayor. A lot of the stuff that I was going to discuss or statements that I was going to make pretty much has all been said. I do want to apologize to chris steele from san antonio. He is not from austin, mayor, and I don't think they have the same council decorum in speaking limit rules and I just

-- I think he was not understanding what you were trying to say because of what was being said.

>> Mayor Leffingwell: I will accept that as an explanation.

>> Martinez: I wasn't explaining it to you.

>> Mayor Leffingwell: But you are correct. It wasn't in accordance to our decorum we try to maintain.

>> Martinez: I was just apologizing. I wasn't explaining it to you.

>> Mayor Leffingwell: All right.

>> Martinez: The

-- so some of the history was talked about in this. The only reason that hiring is a part of our negotiated process is because that is what management wanted in 1995, the legislation passed meet and confer and we started with our first meet and confer contract, and the one issue

-- let me back up a little bit before that, the african-american and hispanic firefighters association tried to change chapter 143 to reflect a different hiring process under 143 to include a more diverse process.

It was defeated and then meet and confer came about. And meet and confer was largely about being able to negotiate chapter 143 in terms of management rights that weren't allowed under chapter 143.

So it wasn't like this is something that the firefighters are demanding. Whether you philosophically agree or disagree that the firefighters should have a say so in hiring, it's the process that's in place, whether it's meet and confer or collective bargaining. The other point is, it's a permissive subject of bargaining. No one side can compel the other one. So to say that the firefighters are mandating the hiring process and dictating it, it is a permissive subject of bargaining. No one side can force the other one to agree to anything on that subject, and you also can't use it to go to impasse because it's a permissive subject to bargaining, so when we move forward, we get to collective bargaining and we have had some successes. Yes, I think

-- I agree that the 2013 process does appear to be the most successful that I have seen in 25 years, but we have had some successes with new contracts, you know, the first year. We see that little up tick and it wanes offer and then we go back to the

-- wanes off and then we go back to the table and renegotiate another hiring process. But the mistakes that were made in 2012, I absolutely believe that there was some candidates that were harmed, but it wasn't

-- it wasn't because of the union harmed them. It wasn't because something in the contract that harmed them. It was a decision made by city's administrative staff. And now that's being held over the association as a form of punishment, if you will, that it's their fault, and actually the association is being sued. So to say that the association doesn't have standing, I don't see how you can make that point when they are actually named in a lawsuit that the eeoc allowed to go forward. They have substantial standing in the process. As it relates to diversity, nobody here is saying we don't need more diversity, at least I am not. I only speak for myself. We absolutely have worked on this

-- you all know this

-- guys and gals, for 25 years. In fact, I had an uncle in the fire department who was a consent decree

firefighter. This consent decree is wholistcally different. That consent decree that becky and paul and many others came under was a separate list. African-american, hispanic women. It was priority hires in each class during that consent decree. This one doesn't do that. This one creates priority hires for a 2012 correction, but then it takes the exact same hiring process that was negotiated in the collective bargaining agreement and allows that to proceed forward so if there is something wrong and discriminatory about our hiring process, doj allowed the exact same process to be used moving forward. Those are the questions that, for me, are the ones that stand out the most. It was said here and I will say it again, that the folks that came up with this hiring process are the exact folks that are in this room. It was borne out of hard work. It was borne out of a challenge and it wasn't a challenge that I necessarily laid out but that was laid out to the feet of the association and it has been for many years. I remember standing at this podium one year as president of firefighters and being told by a council member that it was our fault. This has been the ongoing theme for many years, not just this year. And I remember telling the council member, you know, yes, we have a diversity problem in the fire department, but it's not the firefighters' fault. We have given contract after contract with whatever management has asked for in the hiring process to try to do everything we can to diversify and we have had successes but we haven't gotten to where we need to be. This 2013 process appears to be the strongest stride in that direction to achieving the diversity that reflects our community that we ever seen outside of a consent decree, and I don't understand why if it's so highly valid and so successful why we wouldn't be doing everything we can to solidify that agreement, to solidify that partnership and use that process moving forward, achieving all of the goals. The firefighters association goal is diversity, but it's also highly valid process, that the membership can live with and that produces the best results, in terms of diversity and in terms of who becomes the firefighter. There isn't any reason why we shouldn't be working on that. But because we have two separate issues I think we should offer a settlement for the 2012 process, because I think it's going to be very hard to defend but I believe the 2013 process should be separate and I think this body should be able to vote separately and distinctly, so I am just going to leave it at that. I will let the other council members speak. But I don't believe that a consent decree for 4 or 8 years over this fire department is going to do anything in terms of benefiting diversity or moving forward with hiring cadets. It's going to make it so much harder and it's only going put this council in a much harder position for the next 4-6 years as it goes through the litigation process. So I appreciate y'all being down here tonight but I will let me colleagues speak on the issue before making a motion.

[16:00:22]

[Applause]. [One moment, please, for change in captioners]

>> you have some disagreement about what to do about the

-- actually we don't disagree about the 2013 hiring process. We agree that's a good hiring process. We have some disagreement about how that is managed going forward. What I would like to see is given the level of agreement on so many issues, I would like to see some additional progress towards crystalizing those agreements into some form that would avoid litigation. It's very troubling to me that we're talking about heading into years of litigation when there's so much agreement on all of the major issues that we're talking about. What I would like to suggest is that we aim for

-- we take an additional week to see if there's some way that we can sever out the 2012 questions from

-- from the consent agreement, reach agreement on that, on the terms of
-- on the terms of the settlement, the remedy for the problems that occurred and then with respect to the 2013 process, if there is a need for any level of ongoing doj overview of changes, future changes to the 2013 process, then let's see if we can figure out some working relationship between management and association that would allow us to sit down at the table together to go over those changes and work something out before it ever goes to the doj. That would brief the
-- bring the expertise that the doj has, bring it to the table and to the hiring process in the future and it would allow us to ensure that we maintain the kind of diversity that we see in the classes that bob outlined at the beginning of his presentation. It is remarkable. We're talking about
-- when you add the 2012 to the 2013 classes, we're talking about 59.14% minorities. I mean, we're talking about almost doubling the number of african-americans in the workforce, and that has the strong support of the association, and for us to go into litigation when we have that kind of agreement on the table makes no sense to me. And so I would like
-- I would like to
-- if the council is ready for a motion I'd be prepared to offer a motion that we postpone for one week and direct staff to see if there is any way that we can sever out the 2012 issues from the 2013 issues and settle
-- see if we can settle the
-- see what settlement might be possible with respect to the 2012 hiring process and then work with the association to see if there is a need for ongoing doj review, then see if we can work out any agreements with the association that would allow an ongoing seat at the table for the association in future changes to the hiring process.

[16:04:05]

>> Mayor leffingwell: There's a motion by council member riley to postpone for one week. Does that include closing the public comment period? Because we've had an hour's worth here. Second by council member spelman. And let me just ask the city attorney, I guess that would be you, mr. Crawford, would a one-week

-- we have an offer for a negotiated settlement on the table. Does one week's delay interfere with that in any way?

>> Where we stand right now with the justice department is that we're at the conclusion of a negotiation process that's taken basically seven months-plus, and involved a number of briefings with council, a lot of direction from management and so forth. The message from the justice department attorneys as of monday of this week, the last time we spoke with them, is that the pre-suit negotiation process is complete, and what they have told us is that they have spoken with the attorneys for the union, I think last week, in response to a letter that the union lawyers sent them, went through the points, the negotiating points in that

-- in the union letter, and indicated that they were not willing or interested in renegotiating any of those points at this time. So what they have told us to date, mayor, is that they are not interested in doing any further negotiation prior to a lawsuit. They've indicated to us that the justice department does intend to file suit against the city sometime in the next few weeks. I haven't

-- haven't exactly been specific on within but sometime within the next few weeks. They would do that either in the context of having a consent decree in hand with the city, which we would file with the court and ask the judge to approve and then order the parties to comply with, or failing the consent decree, that the justice department would simply sue the city for enforcement of title 7. And in all of our discussions I will say with the justice department over the course of a five-month investigation and seven months of negotiations, they have consistently told us that not only the 2012 but also the 2013 hiring processes exhibit adverse impact, and so those would be the subject of suit. And I understand the direction that you're making here, council, but I will say that to date we have heard nothing at all from the justice department attorneys that would indicate that they would be interested in going in that direction. If that's the direction from council here, we'd be happy to take that to the doj.

[16:06:31]

>> Mayor leffingwell: The question was just forget about all the direction just for a second, does one week's delay imperil that negotiated settlement?

>> We

-- the justice department

--

>> mayor leffingwell: You said we had a few weeks. So when

--

>> and if we

-- if we told the justice department that the item has been reset for another week, they would probably take that into consideration in terms of the timing of filing the lawsuit, but mayor, I absolutely cannot guarantee you that would be the case. They did tell us that they have the legal petition ready to file in the court and indicated that they were prepared to file it one way or the other, depending on the outcome of the meeting tonight.

>> Mayor leffingwell: So let's say they either

-- a, they either decide to go ahead tomorrow, or, b, the council does not approve the settlement

-- does not approve the consent settlement. Describe the process from that point.

>> If council does not approve the consent decree and the justice department then sues the city, as an enforcement action, they're an enforcement agency, they would file that case against the city in federal court, and basically there have been a number of litigated cases on issues like this involving fire departments around the country. The litigated cases typically take several years to play out, four, five, six years. During that process there would be the typical events that you'd see in a lawsuit with a lot of discovery, a lot of motion practice and ultimately a trial and some findings. One thing that we would need to take

-- you should take into consideration is that the proposal on the table for the consent decree includes an interim hiring process that would allow us to take that 2013 hiring that we have done and hire up to 90 firefighters out of that 2013 process on an interim basis, which would give the fire department some relief on hiring pending the final outcome of the case. What the doj has told us is that all of the elements that are in the negotiated consent decree that they have approved and offered us as a settlement in the case pre-suit

-- all of those things that they've put in the consent decree come off the table if the lawsuit is filed, and while they would be potentially amenable to future negotiations with the city after the suit was filed, we would start from ground zero. That's the message that they gave us this week.

[16:09:00]

>> Mayor leffingwell: So we would not have any provision to resume the hiring process in the event that we contested the consent decree?

>> That's correct, mayor.

>> Mayor leffingwell: And that would be for

-- until something else was negotiated or for the

-- for two or three years for the duration

-- until a decision was arrived at, and I assume in federal court and presumably appeals court and

--

>> in all honesty, mayor, I don't think we can accurately estimate for you how long it would be in the course of a contested lawsuit with the justice department before we would be able to hire firefighters. I do know that if we tried to complete the 2013 hiring process by hiring firefighters off of that list, in the context of a contested lawsuit with the doj, the doj has indicated that they would try to stop that through an injunctive process in court. We may be able to work something out with them, but we absolutely cannot predict that for you with any accuracy at all.

>> Mayor leffingwell: I understand. Council member martinez?

>> Martinez: Can I

-- I'm trying to add some friendly language to the motion that the maker and the seconder of the motion also

-- I would request that you two would sit down with law and with management and even the association, if necessary, to see if there's any other further conversations that can be had before coming back next thursday. And then the second part is that I would ask that we keep the public hearing open. We had five hours of testimony signed up. We asked them to cut down to one hour. I think at a minimum if we're going to postpone this till next week, that we at least give them the opportunity to speak again next thursday. Those are just friendly amendments, I guess, mayor.

>> Mayor leffingwell: Council member riley?

>> Riley: I would certainly consider that friendly.

>> Mayor leffingwell: Council member spelman.

>> Spelman: I'm looking at all the things that we have postponed until next week, and wondering whether or not you all really to come on back and whether you all need to speak

-- especially if you only speak for a minute or two, whether you really need three minutes and if your friends do. If we can obtain whatever public discussion there is to whatever change there is between the item before us today and whatever item may be before us next week, that would

-- that would seem consistent with the list of things we're talking about and still giving the public a perfectly reasonable time to talk.

[16:11:38]

>> Mayor leffingwell: It's not a public hearing, it's a public comment hearing and I would suggest that the door would always be open for any council member to ask a specific guest in the chamber any specific question. All I'm trying to suggest is we not have another wholesale sign-up for public comment, but that would not

-- definitely not exclude, for example Mr. Nicks or whoever he would designate from answering questions or giving us clarification. I'm just trying to avoid another long demonstration that's been very emotional on the part of a lot of folks in here, and I think that's done, we're past that, but that will be

--

>> Spelman: Mayor, that would be my preference

-- that would be my preference, Mayor. My motion is not to close the public hearing and I'll withdraw the second.

>> Mayor leffingwell: So you're withdrawing your second of the motion

--

>> Spelman: I'm looking for

--

>> Mayor leffingwell: You don't agree to the friendly amendment, if you don't, it has to be made as an amendment to be voted on. Otherwise it's not included.

>> Spelman: Well, I don't agree.

>> Mayor leffingwell: Council member Spelman doesn't agree.

>> Martinez: I'll make the motion to hold at least one hour of public hearing when it comes back next Thursday.

>> Mayor leffingwell: Motion by amendment by Council member Martinez. Is there a second to that? That dies for lack of a second

-- Council member Tovo seconds that. And I will not support that. So the vote will be on the amendment. All those in favor of the amendment say aye.

>> Aye.

>> Mayor leffingwell: I believe that was

-- and opposed? I heard you. No?

>> No.

>> Mayor leffingwell: That passes on a vote of 4-3 with myself, Council member Spelman, Mayor pro tem Cole voting no. So that takes us to the main motion. Those in favor of the motion to postpone until next week

-- Council member Tovo?

[16:13:45]

>> Tovo: I just want to clarify

-- your motion is asking our staff to go back to the Department of Justice and propose splitting it?

>> Riley: That's right. If I may

--

>> Tovo: And also sitting down with

-- and management sitting down with the association leadership and seeing if there's any
-- this is a question for you.
>> Riley: I'm trying to get permission to have a colloquy.
>> Mayor leffingwell: Council member riley.
>> Riley: Yes. Yes, and I want to emphasize that I'm not suggesting we go back to the bargaining table and try to push for different terms than the justice department has hired with respect to the
-- has agreed to that
-- with respect to the 2012 process. Take those terms and
-- the idea is to agree to those terms. We agree that there were problems there. We agree to the remedy that's proposed, and that is a fair
-- acknowledge that and move on. We do have some further discussions to have with respect to the 2013 process and how that will be addressed going forward, and I think it would be very helpful to sit down with both management and the association to figure out whether there isn't some working relationship that we could agree on and we could figure out exactly how the doj's contemplated review process would work.
>> Cole: Mayor?
>> Mayor leffingwell: Mayor pro tem.
>> Cole: Are you anticipating presenting specific terms in connection with 2013 to justice with the association and legal together almost like a mediation? I guess I'm trying to figure out
--
>> mayor leffingwell: Who are you asking?
>> Cole: I'm asking council member riley. Is that part of your
-- I want to get a good understanding of what we are voting
-- giving you and council member spelman the direction to do or ask on behalf of council or what
-- how do you envision the process working?
>> Mayor leffingwell: Council member riley.
>> Riley: The idea principally to direct staff to go back to the justice department and make clear that we are we are willing to settle the claims related to the 2012 hiring process, that we do still have some concerns about the remedy proposed with respect to the 2013 hiring process, and we are
-- if the department still feels like they need to have some review process in place, even with a process that has those kinds of results, then we could have discussions with management and the association as to how that would work.

[16:16:21]

>> Cole: So our vote tonight accepts the justice department's offer on the 2012 claim?
>> Riley: It would be
-- it would be to seek
-- direct staff to work
-- to go back to the justice department and see if we could sever that out and some of those claims.
>> Cole: Okay. So tonight we're simply postponing the item in its entirety?
>> Riley: Yes.

>> Cole: Okay.

>> Tovo: Mayor?

>> Mayor leffingwell: So let me ask mr. Crawford again, this is a new idea that has not been discussed, and I don't know if

-- if you can't

-- if you don't feel like giving advice right now, but talk about trunk truncating the agreement and agreement to part of it. Is there such a thing?

>> I'll say, mayor, it's not something that we have discussed with the justice department representatives to date, nor, frankly, is it kind of a concept that I'm familiar with in the research that we have done on similar types of enforcement actions and decrees with other cities in the past. But if that's the council's direction, we're happy to take that to the justice department and talk to them about it as soon as we can.

>> Mayor leffingwell: But council member riley, just for clarification, regardless of what happens in the interim, who talks to who about what, this still comes back to us next week? All right. Council member morrison?

>> Morrison: I guess I just want a little more clarification, because I heard staff say, you know, justice had told us there was no interest in discussing anything further. So you're suggesting that staff go back, management go back and say, did you really mean that? And then if they say no, then continue talking, and if they say, yeah, we really did mean that, still talk to the association to some degree to say is there some way

-- what's your interest in being at the table in the coming four years?

[16:18:30]

>> Riley: What I heard from staff is that the justice department isn't interested in continuing negotiations and I respect that and I'm not suggesting we come back to them and say we don't want to pay that much or we think that the hires is too high. The remedy

-- we're accepting the proposed remedy, and we want to

-- want to discuss how that could be handled. It's very common in litigation to agree on some claims, claims can be severed out from other claims, you can have a partial settlement, you could have a partial judgment. If you don't

-- if we're not talking about a settlement in advance of the consent decree, we could have

-- there's going to be litigation either way, regardless of what we do, and the department of justice

-- it's a matter of whether

-- we could

-- we could discuss how that would work with the department of justice, and that is

-- that is the

-- that's the sort of discussion that would be

-- it happens all the time between lawyers.

>> Spelman: Mayor?

>> Mayor leffingwell: Council member spelman.

>> Let me another one more thing to the list, I think it's in everybody's best interest, we've heard this

several times in the public comment, that we want to be able to hire public firefighters
-- firefighters as quickly as possible, and if there is some way we can work
-- work a conversation with doj to accept the consent decree, reject the consent decree, do whatever with the union so we can get to a process that's very much like the 2013 process or the 2013 list as quickly as possible, whatever will go quickest to be able to hire new firefighters and fill our vacant positions and give our fellows on the trucks more help, I think that would be the best thing. And I don't know if there's anything other than the current process in front of us available for that, but that seems to me emphasizing to them how important that is to us may cause some changes in the process going forward, one way or another.

>> Mayor leffingwell: Council member morrison.

>> Morrison: I wasn't quite through. I do have a question for staff, and I know I'm not a lawyer and I'm not sorry about that

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[16:20:35]

>> mayor leffingwell: Could I interrupt you a second? I was trying to wait until this is done but there doesn't appear to be an apparent end in site, so I would like to by consent put this item on the table and ask that if there's no objection we waive the council rules and extend the meeting past 10:00. So hearing no objection, the rules are waived and we're still meeting. So we'll bring this item back up off the table. Council member morrison is recognized.

>> Morrison: So the kinds of things that council member riley was talking about, while they might be -- and also we hear from council member spelman ideas about, you know, setting goals, the goals would be to make sure we can get hiring as quickly as possible and all that. Are those -- would you consider those sorts of substantial elements of a discussion that's considering negotiation? I mean, it sounds like those are big deals, and it wouldn't be just another week to figure something out like that if doj was actually open to talking about them. I mean, is it opening it up completely again?

>> I'll say, council member morrison, those sound like big-deal items to me, would be to sever the 2012 hiring process resolution from the 2013 hiring process resolution. I can't predict what the justice department's reaction to that would be. All I can say is if that's the direction from council we'll be happy to take it to them.

>> Mayor leffingwell: But basically making that negotiation in a week's time and bringing it back, doesn't sound doable to me. I'm not in your shoes, but....

>> We would be the defendant in the case, mayor, so the ball in terms of moving forward is really in the court of the federal government. They would be the ones initiating the lawsuit. As I say, they've told us that they are prepared to do that now. They haven't given us a time to do it to allow our council to consider the issues.

[16:22:45]

>> Mayor leffingwell: Yeah, but what I'm saying is, is it realistic to think that you could negotiate a partial settlement

-- a renegotiation, in effect, before next week?

>> That was

--

>> mayor leffingwell: Is it realistic?

>> That might be a challenge, mayor, and I don't know the city

--

>> mayor leffingwell: Is that lawyer speak for we can't do that?

>> Yeah.

>> I'll say that

-- [laughter]

>> the city attorney may have a different perspective on this than I do. My perspective on it, mayor, would be that if we told the justice department that we were postponing this for much longer than a week, they would go ahead

-- they would be more likely to go ahead and initiate the lawsuit. I don't know what they would do, but they would probably be more likely to just initiate the lawsuit, which at that point as I indicate, everything we've negotiated up to now comes off the table and we start at ground zero.

>> Mayor leffingwell: And you could not reasonably expect to have a new negotiated settlement in one week? That was the question.

>> That would be a real challenge, mayor, if that's what the council would like us to do we will try our best. But that would be a challenge.

>> Mayor?

>> Mayor leffingwell: Council member spelman

-- martinez?

>> Martinez: I don't think we're talking about a new negotiated settle. I think we're talk

-- settlement. I think we're talking about a phone call at 9:00 a.M. Tomorrow that says the council voted this way last night. They'd like to see if we can sever out 2012 and then make a separate decision on 2013. What do you think? And they say yes, no, can we talk about it more? I mean, for me I'd like to -- [applause] I'd like to talk to them myself, so I'm asking you, how can that happen?

>> I'll defer that to the city attorney, then.

>> Mayor leffingwell: City attorney.

>> Council member, we can ask them. Their practice is to

-- because they're lawyers, to discuss these issues with the lawyers, but we will make that request to ask them to see if they are willing to talk to you.

[16:24:52]

>> And to your point, council member, if it's simply a phone call and are you interested in talking about this issue, you're right, that doesn't take a week. The direction that we were hearing from council member riley and others would involve kind of a three-cornered conversation with the association and with the justice department attorneys, and depending upon how complicated or detailed that gets, that could take a little bit of time or that could take a longer period of time.

>> Mayor leffingwell: Council member riley.

>> Riley: It really is a very simple idea. If we're going to be in litigation, then let's narrow the dispute to the matters that are actually in dispute. We're not here to argue about the 2012 problems. We acknowledge there were problems and we're ready to own up to them and make good on them. With respect to the 2013 hiring process, we're not

-- if the department of justice feels adamant about still litigating over that, and having a consent decree in place that would involve ongoing review for the doj over time, then let's get that out there, let's get a clear understanding of exactly what that review would entail, and then let's have conversations on our end as to whether that is something that we could live with, and there might be ways we can worked out an agreement between something and association where there might be something that we could live with. If the association had a functional working relationship with management to the point where we actually agreed on our own

-- any changes to the hiring process before it ever went to doj review, then that might be something that could be acceptable. So it's a very simple matter

-- it is a very simple phone call to the doj and then based on their answer there may well be some further conversations to have with both the association and management.

>> Understood.

>> Mayor leffingwell: Okay, so the bottom line is whatever the council directs you to do, you're going to try to do. I mean

--

>> mayor, let me just say, we are going to contact the department of justice in the morning. You know, there are several lawyers that we talk to, make sure that they are there and have a conversation with them based upon whatever direction that you vote on here in the next few seconds. So

-- that's what we're going to do.

[16:27:08]

>> Mayor leffingwell: What I was trying to figure out is how realistic is this. I mean, I don't want to be in a position of putting the city in a contested lawsuit over something that just wouldn't be possible, that possibly might provoke an earlier lawsuit even. You said they were ready to do this at any time. So

-- I'm just trying to find out how realistic

-- I understand the council direction is whatever the council tells you to do you will do it and if you can't do it you can't do it. So the direction is call them up in the morning and see if they're willing to renegotiate.

>> That's correct.

>> Mayor leffingwell: All right. So the motion is for postponement until next week with instructions.

>> Cole: Mayor, I have a question

--

>> mayor leffingwell: Mayor pro tem.

>> Cole: I want to be very clear on what this motion is, and I know you've said it at least five times, but let's just say this one counts. Council member riley, what is your motion?

>> Riley: My motion is to direct staff to contact the department of justice in an effort to narrow the matters in dispute, and that means reaching agreement on the matters where we have no argument,

such as

-- and in particular reaching an agreement on all matters relating to the 2012 hiring process. With respect to the remaining

-- with respect to the 2013 hiring process, we need to get a clear understanding of what the expectation would be, if they really would expect to have ongoing review just on the basis of the 2013 hiring process, then

-- but they're willing to settle out the 2012 process, then let's sit down with management and the association and see what we could work out, and if there's any way that that might be something

-- if we could work out an ongoing relationship between the management and the association that would enable us to live with that ongoing obligation.

[16:29:09]

>> Mayor leffingwell: Lost me about halfway through that, but

-- do you understand? [Laughter]

>> tovo: Mayor?

>> Mayor leffingwell: Council member tovo.

>> Tovo: In the latter half of your motion, as I understand it, to sit down with management and the association, those are the parties that are going to sit down. There was a suggestion before that we were authorizing council member spelman and council member riley to sit down in that discussion, and I want to be clear that's not what we're doing. We're asking our management and the association to sit down together.

>> Mayor leffingwell: I don't think he's asking that.

>> Tovo: I didn't think

-- but I heard one of my colleagues ask that question and I want to clarify.

>> Mayor leffingwell: Council member riley

--

>> tovo: A departure from our usual practice and

--

>> mayor leffingwell: Tweanlt the final time. You get

-- it wasn't the final time. You can clarify again.

>> Tovo: I think a simple yes or no. My understanding of the way our charter works is that that would be a discussion between the management and the association.

>> Riley: Based on conversations about this, I think it would be

-- it might well be helpful if the manager is open to it, it might well be helpful for the council to get a better understanding of the issues that are really in dispute. It might be helpful for the council to have some participation in that meeting, in a meeting between management and the association. There is obviously an issue with the relationship between management and the association, and

-- [applause] we've continually been in a position of hearing one story from the management and one from the association and it's a little frustrating to have those completely different stories and having to go back and forth and back and forth, and I think it would be helpful if we could sit down together and talk with everybody in the same room.

>> Tovo: So then are you suggesting that it be posted as a public meeting so that all the council can attend?

[16:31:11]

>> Riley: Happy to work with legal counsel to see if that is a possibility. We have sought to do that previously and run into walls from

-- from staff. If that is still a possibility, I think that would be

-- that would be great, but the point is just have

-- have whatever conversations

-- to have some continued efforts on conversations between management and the association.

>> Mayor Ieffingwell: Would you go over the bullet points of your motion again now? Because

-- [laughter] just bullet points. A, the motion is to postpone till next week. B is to have one hour of public comment. What's c?

>> Contact the department of justice in an effort to narrow the matters in dispute. See if it is possible to reach agreement with respect to the 2012 hiring process.

>> Mayor Ieffingwell: That's c, and that's all.

>> That's it.

>> Riley: And d would be go from there. [Laughter]

>> Spelman: Mayor?

>> Mayor Ieffingwell: Council member Spelman.

>> Spelman: It seems to me that we've already got an agreement on the 2012 hiring process, that it was screwed up and that we should hire more african-american and hispanic firefighters off of that list than were reflected in the scoring, and I think that's something which is in the consent decree already and something which we already agree on. I think it's also true that everyone in this room agrees that the 2013 hiring process was effective. It got us what we wanted. It got us good firefighters and it got us diverse firefighters, and that we ought to be able to hire off of that list as quickly as possible. Mr. Crawford, I've got a question for you. I am fine with the resolution on the 2012 list. I want to hire firefighters off of the 2013 list as quickly as possible. In your professional opinion what is the fastest way to get us to be able to hire firefighters off the 2013 list?

[16:33:34]

>> The fastest way that I can see to do that right now, off the top of my head.

>> Spelman: Yes, sir.

>>

-- Would be to approve some form of the consent decree that would allow us to use that interim hiring process that's built into that consent decree that would give us authority to hire up to 90 firefighters off of the 2013 list and determine some way, some resolution of the issues raised by the association so that they would not try to intervene in the lawsuit and delay it.

>> Spelman: The

-- what would cause a delay

-- well, first, if we accept the consent decree and part of the provisions they're suggesting on an interim basis we could hire up to 90 firefighters on the 2013 list.

>> That's in the decree.

>> We got a list, we can hire 90 firefighters off it and that's a very diverse and good list. When could we start hiring firefighters off of that list? I understand th contingent on other things that haven't happened

--

>> under the structure of the consent decree as it exists now there's a notice process that gives everybody who could be potentially affected by the consent decree an opportunity to know that the judge is considering approving the consent decree, because once the judge

-- the federal judge approves that consent decree, that cuts off everybody's right to complain about the hiring that takes place under it. And so as a prelude to that to give people who might have an interest in the issues an opportunity to object, there's this notice and hearing process that precedes a hearing where the judge would approve the consent decree. And the way that's lined out right now in the consent decree, that would take a minimum of 100 days.

>> Spelman: Okay.

>> From the time the lawsuit is filed.

>> The lawsuit is filed, two or three or four weeks from now, sometime in the near future, 100 days after that point would be the minimum time that a judge could then say, yeah, you're good to go, you can start hiring?

[16:35:40]

>> Yes -- that is correct.

>> Spelman: Okay. Now, we've heard from mr. Nicks and some other members of the firefighters association that it's going to be five or six years before we can hire off that list if we accept the consent decree. Under what circumstances would it take us five or six years of litigation before we'd actually be able to resolve this matter?

>> That's probably more a question for mr. Nicks. I imagine what he's talking about would be the union would try to intervene in the lawsuit and through the litigation process just delay it.

>> Spelman: Okay. So if the union does not intervene in a lawsuit, then 100 days after the lawsuit is filed we'll be able to start hiring off the 2013 list?

>> Using as a template on that

-- yeah, using as a template on that, council member, the

-- sort of the experience of other cities who have gone through that, the answer to your question would be yes, within 100 to 120 days. Because we're sending notice to a whole lot of people, which would include all the applicants in the 2013 hiring process, all of the sun successful african-american and hispanics from the 2012 hiring process, all of the active members of the austin fire department, there are a lot of people potentially who could file an objection and come in and try to object to the consent decree. But given the experience in other similar cases, those objections generally don't go very far. And so we would expect if the union did not intervene in a consent decree lawsuit, that we could probably go to an interim hiring solution within that four to five-month time window.

>> Spelman: You've

-- from our previous conversations and you're suggesting it again now, you have a pretty good knowledge of what happens when doj enters into a consent decree. You've seen a lot of these cases before. At least you've studied the results of them from a distance.

>> Yes, sir.

>> From your point of view, we've got a 2013 process which even if doj does not agree is perfect, doj I think has got to at least agree that it's the best one we've ever done and it's pretty close.

[16:37:43]

>> They haven't said that to us.

>> Spelman: Okay.

>> But what I would

-- what I would respond to you with on that, council member, is that they have

-- they are willing to allow us to hire on an interim basis up to 90 people off of that process.

>> Spelman: Okay.

>> Now, remember the way that the justice department looks at the concept of adverse impact is not based upon who's at the top of the list. What they look at is how do african-americans as a group perform on the test as compared to the way whites perform on a test, and even though you may have a pretty good representative number of african-americans at the top of that list, when you look at the overall performance of african-americans versus whites, you see that there's adverse impact in the test instrument against that group.

>> Spelman: So there may very well be adverse impacts down the list, even though at the top it looks like it's very

-- it reflects the city of austin really well?

>> Yes, sir.

>> Spelman: And that may be what they're responding to in continuing to prosecute the lawsuit.

>> That's exactly the doj's point about the 2013 test.

>> Spelman: Given we're only hiring off the top and not off the middle, given we have a process that at least at the top produces representative results, in your examination of previous consent decrees and previous doj levels of intrusiveness, how intrusive do you believe that they are going to be with respect to the 2014 or the 2016 hiring process?

>> Well, I can tell you what they've put in the consent decree that they want to do.

>> Spelman: Please.

>> And that is that they insist as a part of the consent decree process on having oversight during the term of the decree for the hiring process. Now, what that doesn't mean is it doesn't mean the doj is going to design our hiring process for us. It doesn't mean they're going to hire our testing consultant, it doesn't mean they're going to administer our test. It doesn't mean they're going to score our test. It doesn't mean they're going to decide what types of questions are going to be on the test. What they want to do basically is check our work, and by that I mean they want us to show

-- show them in advance what we're going to do, determine whether they see any impediments to that in terms of violation of title vii, and then on the back end check the results to make sure that it doesn't violate title vii, and if it does, how do we mitigate that.

[16:40:13]

>> Spelman: So we develop a process through whatever means we have. We show it to doj. They check our work and if they think the process is okay they let us go with it. If they want to tinker with it they might make adjustments to it and they probably have the power to make us follow their suggestions. But we're in charge of the process that we show with them. Is that accurate?

>> Almost. The one caveat I would say to that, council member, is if we

-- if we showed them the process or the results of the process, they say they have a problem with it and we disagree, the way the consent decree is structured is ultimately we can take that issue to the judge and let the court decide, and if we're right, then the judge will rule in our favor.

>> Spelman: That would require the judge to have a fairly fine grain knowledge of the kind of things involved in measuring the validity of a variety of tests and scales and so on, would it not?

>> They have very small law clerks. [Laughter]

>> spelman: I understand completely. Is there anything in the consent decree which prohibits the austin fire chief and her staff from working with the union on the development of the 2014 process?

>> Not at all, and I'll just point out, council member, that that's one of the

-- there's nothing at all in the consent decree that determines how the city goes formulating its hiring process. That can be done exclusively by management, it can be done jointly by management and the afa. Howmp the city wants

-- however the city wants to do that, and the justice department has been very, very consistently strong with us on this point. They are not interested in the bargaining relationship between the city and the association. That's not an issue for them. It's not part of the hiring

-- it's not part of the consent decree. Hiring is an issue between the city and the association, and they have told us repeatedly that they're not interested in getting involved in that issue.

>> Spelman: So if this whole consent decree is really an evil plot to cut the bargaining

-- cut the union out of being able to offer suggestions on the proper means of recruitment, selection and training, it's

-- the lawyers at doj screwed it up, and they have not prohibited that from happening. That was a inside comment. Let

-- snide comment. Let me try again.

[16:42:36]

>> I don't know that you want me to answer that.

>> I really don't. The critical issue is if we're working on whoa on developing process, we can do that under the consent decree or not under the consent decree. If we do it under the consent decree it will be more difficult for us to negotiate with doj because we're not negotiating anymore, we're actually in court.

>> That is correct. If we do it not under the consent decree we'll be in a lawsuit called the united states of america versus the city of austin.

>> And will we be able to hire off the 2013 or

-- list while we're in the department of justice?

>> Not unless we can convince the federal judge that notwithstanding the objections of the justice department, we ought to be able to do that, and I cannot in good conscience handicap that for you at this point.

>> Spelman: I wouldn't ask you to. That's crystal ball gazing. Mayor, it seems to me that it would be a really, really good idea for management and the union to talk further, but it seems to me that that is completely severable from the question of whether we accept this consent decree or not, and it seems to me that we're not going to get any more information in the next week on that important issue than we have now, and more important, the acceptance of this consent decree is not going to have any effect whatever on our ability to work with the union on developing the 2014 process and it seems to me that's the fastest way for us to get firefighters on the job as quickly as possible.

>> Mayor leffingwell: I think I

-- I basically agree with that. It seems to me like the process

-- the relationship between the city of austin and the firefighters association with regard to the hiring process in the future is something, as you said, between us

-- the doj and the consent decree need not be involved with that unless they disagree with the product.

>> That's a correct statement, mayor. They're only reviewing the end product.

>> Mayor leffingwell: So we can still continue

-- we can still continue this process of collaborating with the afa to the extent possible under

-- under the consent decree, and I don't

-- I don't see what can be gained by postponing this for a week. So

-- especially under the conditions that have been laid out, I don't think I will support it.

[16:44:58]

>> Tovo: Mayor?

>> Mayor leffingwell: Council member tovo.

>> I'd like to ask my colleague, council member spelman a question. You seconded the motion to postpone but the last comment you made suggested

-- I'm trying to

-- I'm trying to [inaudible] made with the motion on the table. Can you help me with that?

>> Spelman: I'm going to vote no on the motion that I seconded.

>> Tovo: Okay. [Laughter]

>> spelman: Actually, I've done that before but it's been a long time. And it always embarrasses me when I do it.

>> Tovo: I didn't mean to call you out on it but

--

>> spelman: Yes you did, but that's okay.

>> Tovo: I really want to understand the point you're making. Would you mind recapping it for us?

>> Spelman: Well

-- seems to be difficult in this arena but I'll try.

>> Tovo: In particular I was interested in your assessment of why a week wouldn't, in your opinion make

a difference.

>> Spelman: First, because I believe the chances that we will be able to sever the 2012 and 2013 processes with department of justice are going to be difficult. There's going to be a very low probability we'll be able to get them to agree to severing those two pieces. Second, I think it's irrelevant whether we accept the consent decree or not from the point of view of what seems to be primarily at issue here, which is whether we work with the union in developing the next process. We can work with the union in the next process under a consent decree, if we did not have the department of justice breathing down our neck we could work with the union in develop the 2014 process, but we do. And if we don't accept the consent decree now, next week or some other time, we're just going to be in court litigating with the department of justice rather than hiring firefighters. And I want to hire firefighters, and it seems to me the fastest way to hire firefighters is to accept the inevitable. The department of justice wants to sue us, they're offering a consent decree, sure. Take the consent decree. You want to be

- if the department of justice wants to look over our
- check our homework, check our work, be sure that we're actually producing a process which will result in a diverse firefighting force, let them check it. But we can develop that process more quickly if we're not in court.

[16:47:19]

>> Tovo: Thank you. I appreciate

--

>> [inaudible]

>> spelman: Only if you make it so, sir.

>> Tovo: I appreciate that, council member spelman. Mr. Crawford, I have another question for you. I guess I agree with one of the points that was made that it doesn't

-- based on our earlier discussions and what you've told us about the negotiations and about the department of justice and their attitude toward the 2013 process, it doesn't appear to

-- there doesn't seem to be a high probability that they're going to sever

-- that they're going to change their mind about the 2013 piece. I'm trying to

-- I'm trying to determine whether there's a value

-- whether there's any probability that they would at least split those issues so that there is an enter

-- if there is an intervention in court, it's only on one piece and not on both pieces. But I guess to determine

-- but I am concerned

-- I am concerned about the fact that they might file a lawsuit rather than wait for this to play out over the week. So can you help us

-- I know you don't want to handicap that, but do you think if we do postpone this for a week, that there's a likelihood that they'll move forward in that week?

>> It is a hard question to handicap, council member. I will say, and I apologize for repeating myself, because I think I said this before, but we can give you no assurance at all that the doj would be interested in severing off those issues, and I think we can also say that they have never with us taken the position that the 2013 hiring process does not exhibit adverse impact and would not be part of their

enforcement action.

>> Tovo: Right.

>> And while we could talk with them about is there anything we could do with 2013 that might change that result, we just

-- we have nothing at all to go on that would indicate that they would be interested in having that conversation.

[16:49:25]

>> Tovo: Yeah, no, I -- I was trying to articulate, but I understood from our previous conversations, it doesn't sound like they'll change their disposition from the 2013 results. You believe they show signs of adverse impact and they're not likely to change their position on that. As I understood the intent behind the motion, to the extent that I understand the intent behind the motion, it was to separate those two things because the union is in agreement on the 2012 piece, and to ask the department of j you see if they would allow

-- justice if they would allow those so that what we all agree on can be settled, and then the other piece of it could either be voted up or down by council and then proceed on a different path.

--

>> it would be, frankly a challenge, council member, from a lawsuit management perspective for us to be in court with the justice department and in effect have an agreed resolution of 2012 with, you know, a claims process and figuring out how to determine who's going to get the back pay awards and the priority hire awards and so forth, and also at the same time being a contested

-- be in a contested litigation posture with them on the effect and the validity of the 2013 test. I'm not -- I'm not saying it can't be done. It would be a very difficult litigation in that respect.

>> Tovo: I see. Thank you.

>> But I will say

-- and few don't mind maybe I can use your question as an opportunity to help us clarify council's direction to us. What I'm really hearing is a direction that asks us, is there a conversation we can have with the justice department about the 2013 process that could be on terms satisfactory to the association so that the association might withdraw its planned effort to intervene in the lawsuit and take that issue out of a consent decree lawsuit going forward. That's

-- that's kind of the way I'm hearing the direction from council.

[16:51:44]

>> Cole: Mayor?

>> Spelman: Mayor.

>> Mayor Ieffingwell: City manager and then mayor pro tem.

>> To clarify that, mr. Crawford, I don't know that we have any direction yet, and so I think that the position we're in is waiting to receive that from council.

>> Yes, sir.

>> Mayor Ieffingwell: Mayor pro tem.

>> Cole: Mr. Crawford, I just want to take this in a little different direction. In executive session you gave us some financial numbers that

-- having to do with back pay that the DOJ was willing to share with us that might change if we did not accept this consent decree. And I'm concerned now that if we don't move forward and we delay, even for a week, that we have received a legitimate offer from them and that if we come back with something else, then that is effectively a rejection of that offer, and then we don't know where we are when we come back next Thursday.

>> The

-- the back pay number in the consent decree is \$780,000.

>> Cole: I wasn't sure we were supposed to disclose that yet.

>> And actually, yeah, that's actually in the backup for the item, so it's public information at this point. But that being said, in our discussions with the justice department we've gone back and forth on the number. If

-- the one thing that they've made clear to us is that that was a back pay settlement number that was acceptable to them as of when we reached that milestone, which was last November, and they've made it clear to us that if council does not approve the consent decree and we go forward in contested litigation, then that number comes off the table and the actual back pay number they would ask the court for would be much larger. How much larger would depend upon the best arguments that the lawyers could muster and that would include things like how much did an effective firefighter earn on his or her own so what's the back pay they've actually lost. And that's a hard thing to compute in advance, but the justice department's back pay number will be substantially larger in a contested lawsuit.

[16:54:12]

>> Cole: Okay. Mayor, I'm going to make a motion to substitute that we accept the offer from the justice department

-- the consent decree, but issue the further direction, as Mr. Crawford was laying out, that the conversations be had with justice on behalf

-- in conjunction with the union about the 2013 and whether there will be a way for them to mitigate to intervene in the lawsuit. Substitute motion by the mayor pro tem to accept the negotiated settlement with further direction. Is there a second for that motion? Second by council member Morrison. So without further discussion, the vote will be on the substitute motion.

>> Morrison: Mayor?

>> Mayor Leffingwell: Council member Martinez.

>> Martinez: I'm obviously not going to be able to support the motion. I just

-- it's extremely frustrating, because the amendment was simply

-- or the motion that was made was simply to go to DOJ and say, look, we don't have a dispute with your offer on 12, can we separate that and let the council vote on 2013, up or down. Not renegotiate, not rediscuss it, not do anything other than vote yes or no on 2013, but parse out 2012. It happens all the time in litigation, council member Riley says, and as he well knows as an attorney, we keep talking this thing through until we do our confusing hand job thing and everybody is saying something different than

what we originally intended. It's wholly frustrating because that is exactly what this experience has been from day one as it relates to this consent decree. It is one story after another. It is one version after another. We will not be moving forward by approving this consent decree. We will be moving very far backwards. I promise you.

[16:56:16]

[Applause] chief mcdonald? Would you like to offer some comments?

>> Mayor leffingwell: All right. Further discussion? Those in favor of mayor pro tem's motion

-- council member tovo.

>> Tovo: Yeah, I wanted to say something. You know, first of all I want to thank all of you who came down here tonight. I know you've stayed all day and you spent a lot of time here and I appreciate your participating in this discussion, and I really appreciate and value the great service you provide to our city. So thank you. And I want to thank mr. Nicks, because chief nicks has provided us with great information and really I agree with you, the numbers look very good for the 2013 process, and I know that's a result of the fine work that the association did in working with our city to try to recruit a talented group of folks. I think it would have made sense to wait a week and see if there were some other options there, but if we are voting on the consent decree tonight I'm going to have to support it. I believe that the department of justice

-- that they do, it's very clear they intend to file a lawsuit against the city of austin either way, and after a lot of reflection I don't believe it's in the best interest of the city to fight the department of justice and to litigate that in court. I don't think that gets us to the goal that we all want of being able to hire firefighters as soon as possible. So again, I hope and I trust our city management is going to continue to work with our association in positive and appropriate ways. And to collaborate

-- excuse me

-- and to collaborate in really making sure that our hiring process allows us

-- that we're working together to develop a hiring process that really allows us to recruit a talented and diverse group of firefighters.

[16:58:24]

>> Mayor leffingwell: All in favor of the substitute motion say aye.

>> Aye.

>> Mayor leffingwell: Opposed say no. Passes on a vote of 5-2, with council member riley and martinez voting no. [Applause]

>> mayor leffingwell: Doo I ask the staff if we have information on item 58, which was placed on the table earlier tonight? Okay. >Patricia, city attorney

-- the question asked

--

>> mayor leffingwell: We can't hear you. Just hold off for a second. I would ask that we hold the noise down but I have a feeling that's not going to elicit much response.

>> Mayor leffingwell: Okay, go ahead. Just talk loud.

>> Patricia Lancaster, assistant city attorney. The question asked prior to putting the item on the table was what we commonly call the window fine would be for a technical code violation. And what we were able to determine, that it's approximately \$464 because these are types of violations that can go you up to \$2,000. When an individual goes to the window they are pleading no contest or pleading guilty and they're just paying the fine and moving on.

[17:00:32]

>> Mayor Jeffingwell: All right. Is that sufficient information for you, council member Spelman? I believe you requested that.

>> Tovo: Mayor, I didn't hear

-- I didn't hear what she said. I didn't hear what you said the fine was at the window.

>> Mayor Jeffingwell: All right. Could

-- could we ask security to close that door as soon as possible? So we can hear in the chamber? Okay. Go ahead and repeat your answer.

>> The fine itself would be for the window fine is approximate \$464. The person also pays court co on top of that but the fine is approximately 464 for this type of violation.

>> Tovo: Thank you.

>> Mayor?

>> Mayor Jeffingwell: The window fine, that's with the \$1

-- in lieu of the \$1 minimum they would still pay

-- now, wait a minute.

>> No, the window fine is if the individual gets their citation, and they decide I don't want to fight this. I just want to pay it. They plead guilty or no contest, and they write the court a check and they move on down the road. [One moment, please, for change in captioners.]

[17:02:49]

>> Mayor, this is a much higher number than I was expecting and I was thinking maybe a dollar would make sense, maybe \$50 would make sense but if the window fee is 464, it's beyond, I would very much expect the average person facing one dollar in the courtroom and \$464 in the window to walk into the courtroom. That said, we ought to ratchet up the numbers in the drool eastbound things out. 100, 250 and 500.

>> Actually, it is 100, 250 and 500, but it seems to me that

-- help me with

-- Stewart suggests there is value to that 127.50. Do we have a fine for that right now or is that made up?

>> Do not know where Mr. Hirsh came one that number.

>> I understand, Mayor, ratcheting up the number with offenders but it seems the best way to prevent first-time offenders from becoming second and third-time offenders is not merely increasing the penalty but the scrutiny and assure them we will be watching them like hawks and be sure to catch them the second time. The identification is much more important deterrent than the size of the penalty,

so I'm not too worried if we move that dollar out of the basement up to a reasonable number. I amend the motion before us to change that one dollar to \$150.

>> A motion as to close the public hearing and approve the ordinance with the change of replacing the one dollar minimum with the \$150 minimum.

>> Yes.

>> Is there a second to that motion? Second by council member tovo. Further discussion? Council member riley.

[17:04:56]

>> I would like to ask a question. Legal staff, mr. Smart. We heard some time ago when we were taking testimony on this item who suggested this item wasn't going to have much significant because we can't been seeing penalties imposed in any significant number in relation to the number of complaints. In other words, we had a problem with complaints actually pursued to the point where they resulted in citations and penalties being imposed and I just wanted to ask about that. Do we foresee any greater utilization of this mechanism? Do we expect to actually see penalties being posed in greater numbers or any change in the way we've been handling complaints under these provisions?

>> Mayor and council, carl smart, the co-compliance department. In response to the question, I think we would certainly see a difference, the idea behind this ordinance was to take away, make a difference in it, if you will, for violaters to repeat it, to repeat the violation that goes back to court. Whatever amount of the fine given the first time, they know in going back there is a minimum amount that is higher than what that first amount wasp. At least \$200 for that second time, 500 for the third time. The idea was to take away any incentive to go back to court as a repeat violater. If you're going back as a repeat violater, then that fine would be a lot higher than maybe you got off the first time. The first time offense, often, is the person may have come to plied by the time we get to court so that's why the judge is allowed, was allowed that kind of discretion, I believe that was part of the reason. You might get to court and they completely complied with that violation so the fine was low the first time. But don't come back, because if you come back, the minimum fine is going to go up at least \$250, and it could be more. It could be all the way up to 2 those. The other reason is

-- up to \$2,000. The other reason is, I suppose, some defendants come, maybe even tenants that might be indigent and the amount of the fine, if they complied, it could be a hardship for them in that case. But, then, you know, some cases we're dealing with repeat offenders, we certainly want a higher fine. I think this ordinance is good at providing a higher fine for those persons who repeat and come back to court with similar-type violations that they've had before. I think we will see a difference. Certainly, before, the fine amount, the minimum fine was one dollar whether you was a first-time offender, a second or a third so that's not going to be the case. If this ordinance passes we will have escalated minimum fines and I think it will certainly have an impact.

[17:08:21]

>> Okay. And do you see any

-- do you want to express anything about changing the proposed fine for the first conviction to a higher

number?

>> I have some concern but I don't have enough data in front of me to really give you, you know, a well thought out, completed recommendation on it. My concern is that it reduces judge's discretion in cases where the defendant may have complied. Or, if the defendant is indigent. And, that amount may or may not and hardship. Because, you know, each decision by the judge depends on the situation, individual situation. So I have some concern, but I'm not really ready to do a recommendation at this point.

>> Are there any concerns about this point about having a first-time offender who may -- when a remedy for a particular violation has a cost, you know, the owner has to incur some cost in order to remedy it, can you envision any situation where having a \$150 fine for that first offense might actually make it more difficult to get a remedy in place?

>> You're asking if the fine itself would cause any difficulty in getting the violations corrected?

>> Right. Is that

-- when you are expressing concern about indigent spenders, is that part of the problem? They have difficulty making the repairs and then having to pay 1er \$50 for the first oh

-- pay \$150 for the first offense?

>> I suppose that's possible. I'm sure the judge would be looking at that kind of situation, would paying the fine cause a hardship in taking care of the violation. The money spent in fine verses money put into correcting the violation. That's a possibility. But I'm sure that the judge would be looking at those kinds of situations and trying to mitigate that.

[17:10:31]

>> What you're saying is the judge, when the fine has a minimum fee of \$150 for the first conviction, the judge would no longer have that discretion.

>> Correct it does reduce the discretion of the judge.

>> judge.

>> Mayor. I've got a quick question. Council member Riley's line of questioning reminded me that we're only taking people to court if they've not complied. Is that generally right? We're taking them to court to get them to comply. That's one of the reasons, right?

>> They've generally disregarded a notice of violation. There are times when staff can issue a citation on the spot. I think those are traditionally work without permit cases, off the top of my head, but, yes, they generally have an opportunity to bring it into compliance before they come into court. But, I can't say that it is always that way.

>> I understand. But, it would be general practice that if someone has complied, even if we get a court date, we just don't

--

>> I'm sorry?

>> On a general basis, even if we get a court date, if we find that someone has, in fact, complied, they've done what it is we asked them to do, we nullify the case.

>> We do go forward.

>> You go forward?

>> If there is a notice of violation that is issued and it is not complied with and staff issue as citation, it

initiates the criminal process in court. The issue in front of the judge or the jury is on the date they received a citation, was there a violation.

>> Okay. So you don't go before the judge and say, judge, we understand that this fellow has done what it is we asked him to do. We would like to not prosecute. You go ahead and shall not prosecute. You go ahead and prosecute anyway.

>> We can. There is potential for deferral, an opportunity to keep it off your record.

[17:12:39]

>> Okay. But you can't speak to how often we do those two things?

>> I don't think conclusively I could. I know deferrals are very common, deferrals happen in pretty much all cases at municipal court, there is an opportunity, and so if it is the appropriate situation, then the prosecutors will evaluate that.

>> It seems to me, that's an effective way of driving that number down from 150 or one down zero, which under some circumstances would be exactly what we want to have happen, so long as they actually comply. We will leave this one alone. Second time around, however, you're going to see a fine.

>> The deferral, there is actually a fee paid when someone goes on a deferral. You pay a fee and you correct of violation and you don't have any violations in a seven time period. the criminal courts, we keep track. If we see them on something similar, we have a record for the first one and the second one and now they're repeat offender. Is that accurate?

>> If the person complies with the deferral, then the case is done and there is not a conviction. If they do not comply with the deferral, then there will be a conviction.

>> Okay so we don't keep track of deferrals. We don't keep track of the fact we didn't take you to court. We didn't actually fine you the first time or find you guilty the first time. See whether or not this complies. If they comply, it is all gone?

>> I'm sorry. You could repeat your question?

>> No. Never mind. [Laughter]

>> mayor.

>> The record is expunged. No, no.

>> Mayor?

>> Council member tovo.

>> I want to make a quick point. As I think the back and forth indicated, we take people to court after they've not complied, and so they've had an opportunity to do so in most cases, they haven't done so, and we have, as a council, passed several resolutions indicating our interest in seeing our staff in various departments take a stronger enforcement action against property owners that are allowing their properties to be in sub standard condition and I'm supportive of this change and I think we should vote.

[17:15:17]

>> Any other comments? Those in favor, say aye [chorus of ayes]

>> opposed say no. Passes on vote of 7-0. That brings us to item number 28. Item number 28 was set for time certain. There's no comments from council members, we will go ahead and hear from our

speakers. Our first speaker is richard peroni.

>> Thank you, mr. Mayor, mayor pro tem. Live at pinehurst drive in onion creek parkway. I request the support to purchase the flood-damaged homes within the city limits of austin, including onion creek neighborhood. The onion creek subdivision was annexed in 2004.

-- Was annexed in 2004. In a study by the austin watershed department, in 1997 recommended the purchase of some 847 homes located in that area upstream from the keizer golf course. In september, 2008, new fema maps were adopted and in the onion creek subdivision 192 homes were targeted as lying within the 100-year floodplain. The 1997 plan studied various plans and the nonstructural solution of home buyouts. Buyouts would be triggered after the property flooded twice. In 2010, march 16, zoning and planning commission meeting, mr. Joe gavata of the water commission said to the commission, flood once and we're sorry. Flood twice and we will start buying. He was answering the commission's concerns about my proposal that night in front of a planning hearing. At that time, 1571 lots have been approved surrounding onion creek and none include retention ponds, only water quality and all of these paid into what they call a reasonable retention pond. Mr. Gerera again stated at our meeting in january of this year, of 2014, that the mitigation process of buying homes was city the city's process. In the october 2013 flood, 165 homes in the onion creek subdivision suffered water damage. The subdivision has 1240 units, including single family condos and town homes, and the subdivision was essentially built out prior to the 2008 fema. A major factor that supports the idea that the city purchase these flood-prone homes is a water management program started in 1984. This planner offered the developer, rather than develop the retention on site, he pays into a regional plan that should be managed and built by the city. In essence, the city takes responsibility of the storm water. Well, there is no reasonable plan because of the study in 1997 indicated such a plan would be cost prohibitive. It was cheaper for the city to purchase the homes as they flooded. The city staff made a decision to mitigate the flooding residents with nonstructural option and purchase the zone. My memory is correct, the city used bond money to purchase sudden flooded, damaged homes.

[17:19:27]

>> Mr. Peroni, your time is up but I want to ask you a couple of questions. I know you had me pass out this letter from the onion creek homeowners association. And, in it, it talks about providing funding for the creek beds. Can you talk a little bit about that?

>> Yes, ma'am. The onion creek subdivision is unique. We're surrounded by the slaughter creek that runs around our west side and to the north. Then we have onion creek that comes around the south side and to the east and they come together just northeast and both creeks were very heavily inundated with trees and limbs and stuff like that. I have visited with the city watershed department and they have no plans of doing any creek clean up. Some of the neighbors have done that. We did as an hoa clean up our common grounds that did front on slaughter creek, but right now they have said they will provide dumpsters if we get volunteers or whatever to go into the creek. A lot of the people are concerned I was what happened is some of the areas got dammed up and they're worried about the wait they're sets up with mosquitoes and it is not attract five okay. We appreciate your testimony.

>> Thank you.

>> Thank you. Next is derek norris. Next is charles ponzio.

>> Mayor pro tem, how many minutes do I have?

>> Charles, you have three minutes. Did someone donate time to you that's not showing up on here? What's your name?

>> I didn't donate time.

>> You can sign up with the clerk and we'll give you six minutes if you

--

[17:21:28]

>> (inaudible).

>> Okay. Charles, you can go ahead and go to the mike and begin speaking. You will have six minutes because she is donating your time but you need sign up with the clerk.

>> I already signed up to speak, as well, and somebody else donated time.

>> Who is that?

>> Lopez, but I'm not exactly sure if showing or not.

>> Make sure you sign up with the clerk that you donated time to Charles to speak. Go ahead, Charles.

>> Okay. When council member Martinez gave his press conference across the hall here, the Austin American Statesman ran an editorial that following Sunday saying it's a great idea. What we would like to do is similar to what you want to do, Mayor Pro Tem, that's put the vote out to have the voters make a decision, and have the government that's been decades long responding to this issue, and now we've got gridlock. Well, I thought that, you know, the statesman, well-intended people. We've actually had an editorial meeting with them and flood victims, but they just didn't understand what was at risk. So I thought if we could get a 3-D model of the area and Steve Ward, a UT graduate, was when everybody else in Austin fails, Steve who lives in Houston was able to get this for us. What you have in front of you is the contour map that Steve took and here you have I-35. Here is William Cannon, here is Pleasant Valley, and this is Bluff Springs Road. What inspired me to get this done or ask Steve to do this for us is this is, I understand, Bobby Creek and this is Onion Creek coming in here. Where the creek crosses here is where the woman and her infant son were washed away. And where are Craig, who we've affectionately nicknamed for the floodplain, and their body was found in the back of this home. And, if you're at this part of Bluff Springs and you're looking at this terrain, you can see here how there would be massive water flows come through here and down here, where Petis Elementary School is located, the waters we understand from people that have kids there that we understand there is a dozen families who will no longer send their kids to Petis Elementary because the water has reached the front entrance of the school. So, with the record development that's happening south, everybody agrees, nobody argues that when we do have another rain bomb in the right areas, we're going to break records and probably that school is going to get flooded. But, for sure, the people, depending on the time of day that live in this little area where the creek comes around, this would be the bridge, right there, at William Cannon. Those folks that are remaining there, and all do respect, Mayor Pro Tem, I don't think we've got until July to make a decision on your plan that you've come up with an alternative. And, with respect to the firemen that were here earlier, if the DOJ ever had a case for a minority/majority community that has been repeatedly ignored through repeated floods, and living in homes that the Army Corps of Engineers said you shouldn't build on a floodplain, 1976 report said you should not be building in a floodplain, in

that same report that my friend luke adams has a copy of, it has the austin watershed ordinance pages 12 and 13 of that report that says, if do you build in a floodplain, you elevate the structures and the roadways. And, as you can see, none of that happened. So, if ever there was a case for the department of justice to come in and act on behalf of a night/majority community, wing we have it here. But this being texas and this being the austin city council that the state looks to, I would say everybody lacks to looks to us but particularly the city council, with congressman martinez -- well, already promoted you.

[17:26:47]

[Laughter] council member martinez' proposal

--

>> I think I like congressman. [Laughter]

>> we could make major strides towards taking care of our home without the rainy day, the governor calling for special sessions for the rainy day fund. And, save a lot of lives. Where is my friend, luke. Well, I would turn over whatever time I have left to speak.

>> Okay. May name is rios and I'm hear wearing different hats. One of them will be as president of the buyout, onion creek guy byeout program. The second will be as the district seven director for lulac and the other will be the democrats. They are all supporting these efforts. In fact, I do have a couple of letters from them that I will be turning in to the city clerk. Basically, mayor and members of the city council, the legal lulac, district seven is respectfully asking for your support for the onion creek proposal put together by martinez. The yes vote will keep hundreds of onion creek families from facing the life-ending that everyone agreess will appear sooner rather than later. Okay.

>> You are signed up to speak with rosario donating time and gio. Are you all both here? Can you stand up? Okay. You used some of his.

>> Illinois' keep going.

>> Okay.

>> We're asking for, to support mike martinez's proposal to purchase the remaining homes in the onion creek floodplain, to stop deducting the insurance proceeds for the buysout offers and stop issuing the 30-day take it or leave it offers. The last offer was february 20 where they mentioned drags that buyout program up to six years. We don't know if that is tied to this resolution or not, but it also mentioned 12 million for a consultant to conduct the buyouts. And if we are seeing that, then we kind of don't support the fact that they are deducting money from the insurance from a fema perspective or fema regulation saying we don't have enough money if they're putting 12 million into a consultant. We believe the city has the capacity of conducting the buyout directly with no middleman, but that's basically where we want to express tonight. Tonight, we saw you just approve a one dollar increase to the gas, over a one dollar increase to the gas to benefit a corporation, and this proposal is only 75-cents to save actual lives. City cents. So I want to thank mike martinez and morrison, especially the staff, for making this, bringing this forward, and in order to keep more innocent lives, you know, to be lost. And, from families to be living in a 500 area mile body of water, we ask you to support this proposal. It's been almost seven months, we still have people living in driveways, people without stoves, without fridges. It's terrible out there. And, you know, I would invite you to go drive by, visit some of other families. I think it's very

important to get them out of harm's way. I know there is another proposition in the agenda, item 64, that will conduct our city manager to go seek federal finding. Well, we've been waiting for a long time and we know what the federal climate is in regards to finding. It is going to be really hard and our families don't have the time. I know they live in a 100-year floodplain, I live there myself, but a hundred-year floodplain doesn't mean it is going to flood every hundred years. In fact, it has flooded over four times in the past 32 years. And, a water bomb can just drop anywhere, you know. So I don't think that's the best idea. Going and trying to seek more federal finding for this is not the best idea base we don't have the time. I ask you to reconsider. If you were against this proposition, I ask you to reconsider and put priorities. After all, the life and safety of all austin citizens is at risk. For the future council members sitting here after november, please show your leadership and do the due diligence. I believe that the city, I believe that the government's first responsibility is the life and safety of their citizens. Thank you very much.

[17:32:30]

>> Thank you, isabelle. Luke adams.

>> Hi, I'm luke at adams, I'm a friend of people living in onion creek community. The reason I'm here is because of some people. That fellow's name is tracy ward, he was a special ed teacher at smithville junior high school. He lost his life due to the onion creek flood. Next person is a retired airman, former u.S. Treasury worker, former wal-mart worker, reverend from mount zion baptist church, his name is reverend edward ed jackson. Next person is josephina rodriguez, 31, she lost her life along with her son, his name was jay rodriguez. He was eight months old. What we're talking about is a public safety issue. Safety issue. We've had floods in this area of austin. 1869, record flood. 38-foot. 1921, those are the record floods for the onion creek area. Same area, we were just three foot higher october 31. Two weeks before that, we also had a flood. So, we are living in flash flood alley because of geologic geology, geography and the air temperatures in the gulf. We had the water bombs as isabelle talked about in marble falls, memorial day floods, christmas floods, so floods will be here. We have to have a deterrent, some way of mitigating this problem. The area that hasn't been affected in terms of flood mitigation has been the onion creek area. We've done that with the COLORADO RIVER IN THE 30s, 40s AND 50s WITH THE Creation of the highland lakes, created reservoirs and established dams and used that for the electric industryification. Now -- electricification. It is more likely we will have more problems, whether it comes two weeks from now or the week after, it is time to do something before we have more people buried by the floods. Thank you.

[17:35:08]

>> Cynthia valdez mata, junior. Paul sodana.

>> I have some pictures I want to show, but before I do that, first my name is paul sodana. I'm here to speak on behalf of habla hispanica leaders of austin war group of local community leaders working to develop sustainable solutions that assure that latinos in austin have access to quality of life. Earlier, I sent an e-mail to you all recording my support for this particular item. I also wanted to reiterate the

fact that our local community values and city charter talks about housing discrimination. And my opinion, as long as we have austin items that remain in harm's way, we're denying them quality of life, it talks about the rights of people to obtain housing and denial of such rights is detrimental to the inhabitants of the city, which is within the power and proper responsibility of the government to prevent. I want to thank council member morrison and martinez for your compassion and leadership in addressing the needs of the family, families affected by terrible tragedy. The families have endured too much suffering and tragedy and lives remain at risk today. This issue is not about politics, this is an issue about human compassion, human dignity -- compassion, human dignity and fulfilling our local values that every citizen of austin should be given access in austin, no the mat matter where you live. It is my hope that each of you will vote to support this item.

[17:38:34]

>> Thank you. [Applause]

>> edward reyes.

>> I would be called up after a video like that. We want you to support the buyout. That's on the agenda. We want it to pass tonight. We want to be taken care of as a community, as a people. Our community has inherited one problem after another. What's the value of our community? Because the lives that reside there now are not valued. Life over 500 homes, people's investments, people's interests are overlooked by development throughout our city. We live in a funnel that's only getting worse and it is not getting better. The city of austin has to stop, number one, dedistricting insurance proceeds from buyouts. Number two, issuing this 30-day take it off leave it offers on the table. You know, we also might to cut thought middleman that's costing \$12 million. Out with the old, in with the new. Out with the residents who have been putting up with these conditions for decades, for generations. In with the new visitors, travelers, students, et cetera. When do we invest in our own? We, the community, just wanted to be left alone, to live our lives, to go to work, to go home, enjoy our culture, barbecue, kids, enjoy our music. Our parents and grandparents and great grandparents and so on tried the approach of minding our own business. If I leave them alone, they will leave me alone. Not only did this approach fail but we, the generation at hand, will not allow the city to forget our history or forget that we, the people and residents were placed in a situation of danger. We were not rescued because of lack of preparation. Now we lack response. If we don't pass this buyout. Proposal that as on the agenda today. I heard there was a buyout in the process for 10 years. 10 years has come and gone and it is time to make a decision. We have been hurt. We're strong, we continue to show up, rebuild and embrace each other. When it rains, we get text messages and phone calls and facebook that people are scared, so please pass this agenda, this item that's on the agenda, thank you.

[17:42:01]

>> Thank you. Erin foster. Susan willard.

>> Mayor, mayor pro tem, council, I want to say thank you all for having is today. I am a flood survivor, I live on fire fly, one's one of the co-chairs of the onion creek park alliance, I'm the secretary of the

newly-formed austin recovery group. I don't want to be bought out. I love my neighborhood, love it down there. We've got deer, raccoons are coming, it is really, really nice. But some of my friends and neighbors really want to be bought out. They haven't been able to rebuild, because no offense, the city of austin hasn't made a decision, what are they going to do. Are they going to have to elevate or are they going to have to do whatever. We don't know. Are they going to be bought out? Are they not going to be bought out? People don't know what to do. You all aren't telling us what the city of austin is going to do. This buy out proposal that council member martinez has got is a step in the right direction. Of the issues that are going to come before council today and in the fight regarding the flood -- the fight regarding the flood, this is the most pressing one: There are people that want to be bought out, should be bought out. We should do that. I've got 75-cents in my pocket, I can give up 75-cents to buy you a cup of coffee. If this happened in another area of austin, I would do it for them and they would be willing to do it for me. There is a point you will be asking, one of the things I read in the paper, talking about safe access to the neighborhood, and I don't know if I'm allowed to ask questions but I understand that is a city regulation. When the time comes, are you going to give me a variance so I can stay in my neighborhood? That's a biggy. I want to stay, I love to live down there. But for my neighbors who want to go, I support them going and this is a step in the right direction and I really hope that you all will pass this resolution because I don't think the city of austin is going to cry too much over 75-cents. It could have happened to Shoal Creek, it could have happened anywhere else. Also, the Onion Creek water shed is 83 miles long. There are more areas in the 100-year floodplain than those included in it. I would like to see you expand to the south Onion Creek over by the golf course and any other areas that got flooded. If they are on the hundred-year floodplain and they want to go, let them go. I'm from federal reserve Houston. We get hurricanes. We didn't tell Galveston, you can't rebuild, abandon the island. You can prepare for it and there are proposals coming before you that we can address at a future thing and I hope you all approve this because it is important and it is the right thing to do.

[17:45:29]

>> Thank you. Ophelia.

>> Good evening, mayor and council. I am a member of the San Jose Catholic Church and lead we are Austin Interface. It has been over a decade that our families in southeast Austin continue to suffer because of the natural disasters. So, there are natural disasters we cannot control but there are also the man-made disasters we can do something about, and that is you, our public officials, stepping up to take summations and protect the families of the neighborhoods that have suffered over and over with these kinds of devastations. It is way overdone. We do not live in a third world country. We live in a wealthy city. And, yet, we don't take care of our own residents in this neighborhood, the most vulnerable. It is time for you to bond together as one council and stand in solidarity and support the families in the southeast Austin neighborhood. So that they can move on with their lives. Put closure to this devastation, this fear of everything that continues to come up every time it rains. Tonight, you can make a difference as one standing together in solidarity and doing what is right. We can have report after report after report. Data and data. This is about human beings. Thinking it could have been you, it could have been your family member, your brother or sister. And, hope those pictures will bring back to light what the families

continue to struggle with day after day, and we really look up to you, our leadership, we, astin as austin interface are working in our districts. We are the chairs of district two. There is an election in november so we ask that you do what is right, and if not, we will remember in november elections. Thank you. Very much.

[17:48:13]

[Applause]

>> annie harton.

>> I'm I am donating my time to lisa.

>> What is your name?

>> Annie harton.

>> Thank you. David cortez.

>> We're here, sacrificing time away from our families to present testimony to you all. It is moving. It was hard seeing those pictures. We were down in the flood zone helping these families the day after the flood. Had to speak around apd to get in there and help families. People trying to twist open their medicine, still use it, even though it was soaked in gasoline. What happened will happen again, and you have the opportunity to stop it. Speaking on behalf of sierra tonight, I want you to understand that this is the new normal. This isn't a water bomb. Extreme weather is here. Our climate has changed, we will see prolonged drought and drought and then we will see increased rain over a year period. It won't come like it iced to, it will come at once. If we continue to grow this city and this region as we are doing, maximizing all this impervious cover over a floodplain like this and funnel all this water into a historically marginalized and poor community, we're going to be a tough to be to abdicate our responsibilities. Those running for public office, just as the ladies from austin interface said, we're organizing in all 10 districts, as well. You have the opportunity, just like your predecessors had a chance to get rid of the tank farms and shut down the holly power plant and work against casting, this is the mod everybody and environmental racism and environmental class issue of our day and you have to chance to step up and help these families and get them out of harm's way. For those who will go on and do other things, honor your legacy, honor the good work that I've been trying to do for so long to get these folks out of harm's way and just hear their plea and do what's best. Mr. Mayor, and pro tem cole, if this proposal going to cause harm or slow the process or cause harm to getting folks bought out, let that be phone, but I'm inclined to support the pleas and cries for help from the community here today and I ask you to do the same.

[17:51:36]

[Applause]

>> lisa pithion. Donated time is james casey here?

>> He had to go. I don't think I need it.

>> Ryan ruffles. Is ryan here? Nobody is here. You got three minutes.

>> It's all right. I'll go for it. I can talk fast. Mayor, mayor pro tem, councilors, thank you for staying here as late as do you for democracy to work. I've been volunteering in the flood zone since november 1.

Almost every day for three months, gutting homes, providing FOOD AND WATCHING THE DISStERS OF the

-- the disaster of the disaster recovery effort. A lot of stuff happened right away, the city did stuff right away in donating dumpsters but after time, more and more people were not in the area and residents are hanging out in an area alone that is completely devastated. If you haven't been down there, you've seen photos but please go check it out. I've been working with austin common ground and have started to work with the travis austin recovery group and we do have ideas we're bringing forward about how to make this recovery more compassionate and effective. Tonight, I want to speak quickly about the buyout proposal. I want to urge you to support this. I think this is unconscionable if you do not. If you look back in history, there is no question there was wrongdoing on the part of the developers. We heard people say again and again, we didn't know it was in a floodplain. We knew it was in a floodplain, the city knew. It wasn't any of you but we ail inherited this problem so what are we going to do it now and today. Seventy-five-cents for the drainage utility charge, it is actually, I believe, affordable for households in this community. I would like to see the corporations pay for it, but I don't know where that money is going to come from. I would love to see the feds pay for it since the army court reporter corps did the first study but we don't have forever, these families can't hang out in limbo. It can't happen. So I know the city moved fees up to \$13 a year. I know I've got a 60-cent fee for the waller project, but that is going to deny to benefit downtown development and corporations. We have hundreds of families

-- please don't roll your eyes when I speak, you do that all the time. This is a real serious thin thing. People are needing to move on with their lives and need you to make that happen. I also want to say it is an election year but a disaster is not the time to play politics, it is the time do things right. It is time to get as much money together as fast as woke have a buyout tomorrow have written representation and have time to decide and prioritize. Right now it is based just on harm's way and there are families with children or health issues that might need to get out before other families so can we look at other ways to determine who gets that next offer. I will say this, affordable housing is the other solution. If we have no place for people to move

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[17:55:08]

>> time expired.

>> So affordable housing

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>> angelica. [Applause]

>> hello, mayor and city council. I know you guys are just as tired as we are. I'll try to make this really brief. I'm here representing

-- I also want to let you know I'm a cdc member on the community development commission. Months ago on the community development commission, I along with commissioner reyes introduced a resolution to ask the city allocate over a million dollars to help the flood

-- dollars to help the flood victims in the flood zone. That is just ban aid to get them through the days to get fin from the federal government. It is not coming fast enough. I don't know about you guys, but

when it rained the other day, it wasn't the thunder and lightning that kept me up, it was wondering about the people down there, wondering how many were climbing on their roofs like they do when it rains. It is a real fear them there. As city who boasts being the live music capitol of the world and puts so much on tourists coming in, as a city who pushes so much, when we going to push for the people? When are we going to focus our efforts on the people who live here every day who invest their money and time every day into the city. When are we going to put the efforts where it counts? I would like to see the day that this city could one day boast that they put their residents first. I came to you hours ago and asked you not to vote on increasing the gas rate. To allow a company who decided on its own volition, on a hit and miss, to make pipe repairs, hoping to get it right when they dig up the land and you voted to approve that almost \$2 rate. I don't understand how the city can allocate money to the drainage fee, 60 to 75-cents for waller creek for tourists to have a good time and enjoy themselves but we can't allocate that same 75-cents for people have peace of mind, for people to feel safe. When you go home tonight and lay your head on that mattress and you're had and you go to bed and you're peaceful and calm and safe, I want you to remember that there are thousands of people down there who go to bed tonight wondering if they're going to wake up in the morning. Thank you.

[17:57:51]

[Applause]

>> suzana. Kena perez. How about brenda ariano. Not here so you have three minutes.

>> Hi, my name is anna perez and I'm a flood survivor. I'm sorry. I've had a real rough time. I'll try to control myself. The reason I'm here is because I would like you all to support the buyout. A month ago, my son had surgery due to the complications of his asthma and allergies. We were living in a polluted house with mold. It was never fixed. The people just got up and left their home like it was so we were living right next to it and it affected us really badly. My son has been going to the pediatrician, urgent care, in and out recently, saint davis for a head surgery. He had to get a hole in his skull so they can drain the gunk out that has built up in there for six months, because that's how long it has taken for anybody to attend this abandoned community. Now, when you see someone from your family die, it hurts. You know. But, when you see someone, a child, having to deal with all these things, asthma, allergies, it just -- and you can't do anything about it because you have to go back to where you live and you can't control it because no one is doing anything about it, our community received many water pollutants and our children are suffering the consequences and my child had to stay in the hospital for a week. And my greatest fear was having to bring him back to a community that is still the same way as it's been for six months. Now he's not going to get any better. We're going to have another surgery in three months. I am not in the buyout program now, and I would like you all to approve the buyout because some of us really need out. The fear that people live in this area, it's undescrivable. We've had just this monday, people driving out of the neighborhood being scared, honking their horns to tell the people to get out. People running to the creeks, checking it out to see how high the waters have gone. Coming back, getting calls, getting text messages from people asking us what do we do? Do we leave? Do we stay? We still don't have any kind of way that you all can let us know what to do in this type of emergency. We had to leave and found people at the corner store sleeping because they didn't feel safe in their homes. So they parked at the corner stores to sleep there and that is really

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[18:01:27]

>> ma'am, please conclude, your time has expired.

>> Thank you.

>> Thank you. [One moment please for change in captioners]

>> they called me and asked me, do you want to stay? I said, well, it has to be raining three days in a row. That way, we can check the river, at 1:00 in the morning, to see if the water is higher. I saw the police over there, police car over there. They told me call them. I said these people know we're okay I guess for this night because we've got a police close to the river, that way they can call up and say, yeah, you can stay, or we can leave. It's time for the city to do something after all. After 30 years we're living there, it's my second time living there, it happened again to me and my family. We're living over there, to wait ten more years and get everything in the water again, cars, items, everything we loved. And it's starting again. Who of you have been living like that? Nobody. If somebody asks who they take their money from, if one of you want to take all my check, all my house, everything and swap it for your house, feel like we're feeling over there. Feel what we feel over there. Give me a proper solution. I thank mike martinez. I guess he got the message. All of are here to save the people. That's why you are selected over here, to serve the humanity, not serve political. That's not the money we're living. We are people, we're living, we're trying to get out. We want money from this buyout, the city watershed department needs to deal directly with everyone. The money from the policy, they never told me they're going to take the fema, plus it's legal from fema, they never sent information about taking your money whenever you've got a

-- whenever you've got a flood, we're going to take your money to pay off your house. We never get that one. I'm not a lawye whenever you sell something

-- they never sent me information. They said whenever you've got flood, we're going to take your money to pay off your house if we've got to buy out your house. So that's illegal, if you want to make someone do those kind of deals. Probably it's illegal for federal too. I'm not a lawyer to know that stuff. I'm in the flood, like three or four hours ago, I see you recognize the poor people over here because they saved some people from the car, that went in the water, like the same with our families, we went and locked the doors, for those people. So the next time it rains, we want to wait for neighbors to come and knock on our doors? I mean, that's not right for us to be living like that. We're living in the country, look for humanity, not for money, not for things. That's not right for every one over here. We don't know when it's going to happen again. , When we're going to look at the flood again. This kind of well, everyone has explained already it's going to happen again, then who's going to bell over there? Who's going to come over here the next three years again, same thing, asking the members over here to buy out the houses? That's not right. And talk with somebody say the same thing, this is for humanity. This is for human beings that we've got to vote for it. That's not for money, that's not to get better on it, we want to live a real life, not the scary life like happened on halloween. We're halloween over there. So thank everybody, and I hope everyone vote for yes. Whoever vote for no, it's going to be on their conscience.

[18:06:36]

>> Mayor Leffingwell: Thank you. Crisp caballero. Christian caballero. Ruby roa? Ruby roa. Rosa villegas. How about chris rubs? Chris rubs? Where? Okay. So you have six minutes.

>> So we have come several times and expressed our situation over at onion creek. So first of all, I want to thank mike martinez and laura morrison to stand up for what's right and to do the right thing. One of the reasons why this item needs to pass is that the city of austin knew about the floodplain before the development was ever approved. Back in 1973, there was a study produced by the united states army corps of engineers, produced by the city of austin watershed protection department, that showed that a large portion of the onion creek forest and onion creek plantation were located in the 100-year floodplain, before development was even approved. There have been many floods before this one. This one was a more severe flood. Back in 1998, the onion creek floods after large texas rains come. Also in 1981, there was something called or known as the memorial day floods in onion creek. There have been too many deaths reported in the history of the onion creek floods. This one seems to be only another event. The houses that have been getting bought from the buyout are too slow. There's still people in harm's way. On average, it looks like between 2000 and 2006, the city of austin purchases and demolishes about 45 to 55 houses. There are over 800 different damageable structures in this area. At that rate, it is too slow to get anyone out of harm's way. Personally, I love my house and my neighborhood and my neighbors. I do not want to get bought out by the floods, but I do -- I mean I don't want to get bought out by the city. I love my house. But the floods have hit so hard, a lot of families with children are afraid for their lives. My house got flooded with about four feet of water, a little over four feet of water. Had a child been in my house, two or three years old, they would not have made it out. Four feet of water is way too high for any child to survive, especially in the current and the strength of the water current that was what occurred in onion creek. So I'm going to tell you a little bit about myself. My name is rosa villegas. I live in onion creek and I'm an unaffected individual by the flood. I survived the flood. Some of my neighbors did not. I have been moving from house to house for the last six months. I do not have a stable home. I still pay my mortgage. I pay rent. This money is not going to be there forever. It's been six months. When are we going to be making a decision? The money that the people have is not a lot. The money is running out. And it's mostly insurance money that people are using to sustain themselves and to stay afloat and to pay their bills. I have to pay for a storage that I've put my entire house in, or whatever was left of it. I haven't opened that sociology since. I don't want to look through the things still mudied and see all the things that no longer work, pictures that I can't tell who or what people are in them anymore. There's so much more work that needs to be done. But this, this resolution needs to pass to get the people with families and children out of harm's way. The people who need to be moved out of the area need to be offered a buyout. And I'm not saying that we're asking for something that is impossible to have, or to get. Seventy-five cents per month, I'll pay 75 cents per month, even though I don't want to move from my house. But I want my neighbors and their families and their kids to feel safe. So

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[18:13:08]

>> Mayor Leffingwell: Thank you, rosa.

>> I urge you to vote yes on resolution 28.

>> Mayor Leffingwell: Calata garcia? [Applause] would somebody come up here and take this money and give it back to this lady? Carlata garcia. Roy wheling.

>> Howdy, you all. My name is roy whaley. I'm the conservation chair for the austin regional group of the sierra club. Global warning with real climate change is real. Doesn't matter if you want to believe it or not, it is. However, you all already believed that. I've talked with each and every one of you, and all of you agree that climate change is real. He butthere seems to be a disconnect between what you know and the decisions that you make, sometimes. And I think this is one of those cases. I believe that had this event happened in travis heights, it would have been dealt with by now. If these floods had occurred in the bouldin creek area, they would have been addressed by now. If it had happened in hyde park, we would have dealt with this by now. If it had happened in tarrytown, we would have dealt with this by now. If it had happened in northwest hills, we would have dealt with this by now. But because it's in a corner of the city that we don't pay a lot of attention to, and that doesn't make a lot of noise down here, we haven't dealt with it yet. And I think that is a shame. I think it is truly a shame. Seventy-five cents a month. That doesn't even buy you a corner store crappy cup of coffee. I think most people are more than ready, across this city, to pay 75 cents a month to help our neighbors. And I think it is incumbent upon us to do that. I think

-- and I don't talk in these terms very often, but I think it's or moral obligation to do this. Not to wait.

Not to wait. But to help out now, to deal with it now. I named off some neighborhoods. If it had happened there, I truly believe this would have been taken on well before tonight. So I ask

-- I ask that you move on this, we don't wait for federal funds. We have people come to austin all the time saying, give us some of your money. Give us some of your tax breaks. And yet we have our neighbors right here that need us now, and we need to deal with that and help our neighbors. Not only did the city know about the floodplain before these houses were ever put there, but we've known about it ever since then, and we just spent years dealing with the watershed protection ordinance to create greater creek set back so it won't happen again. It's not a problem we can ignore. This is something we need to address. These are real people, real lives. These are real lives. So, please, do the right thing, and let's help out tonight. Thank you.

[18:17:08]

>> Mayor Leffingwell: Carmen dela vega. Carmen dela vega. Carmen is evidently not here. That's all the speakers that I have signed up that wish to speak. Delia garza. Skipped over you. Sorry.

>> Good evening. Thank you for your patience tonight. I'm asking you to please vote yes on this buyout. I'm on the dove springs advisory board and I spent many hours there the day of the flood in the effective community and after the flood. There was a city presence there, but that presence is gone. The reality is, there's been a pattern of neglect to the southeast community, and because of that, southeast austin has become very self-reliant. I've been there since, I've been in the community since the floods, and these families, the people have spoken to you and as you've seen pictures of, they're living in horrendous conditions, and it's been six months. And I really want to know, would you want your families to be living in those kind of conditions for the past six months? I understand that there's a proposal to increase the drainage fee for the waller creek area, and I'm curious to know what that increase is, and

I'm also curious to know what the justification for that increase is. I think this resolution is a step in the right direction, but most important, it is the only

-- it is the only resolution, it is the only solution that has been put forward, and it's been six months. Any suggestion that delays a solution is a bad idea. This community needs help now. I mentioned earlier that I was a firefighter. And as a firefighter, when we showed up to a burning building, we didn't wait six months. We didn't wait for federal funds. We went in there and we helped. When we showed up to a cpr call, we didn't wait six months to start chest compressions. We went in there and we helped. People are in danger in this area, and it's your turn. You need to go in there and help. Thank you.

[18:19:23]

[Applause]

>> Mayor Leffingwell: That's all the speakers that we have signed up now, so the floor is open for a motion on this item. Council member martinez.

>> Martinez: Thank you, mayor. I just want to make a few comments before the motion. I want to be very clear because there's been some differing viewpoints. Voting in favor of this mission tonight

-- bless you. Voting in favor of this motion tonight does not increase the drainage fee. It allows staff to move forward with preparation of a budget discussion that will later be decided on by council. And to me, that's a big distinction because I don't want some folks to think that if this does happen to pass tonight, that we voted to move forward and go for the full buyout. We still have

-- it's kind of the texas two step. We've got the take that second step during the budget process to finish the work that we've begun. So I just want to make that very clear. But, I also want to make very clear that should it pass tonight, I will be supporting that during the budget process. We don't just have folks that are living in harm's way. We have folks that are living in deplorable conditions, that are living in tents, and they're living in trailers, and that are facing health effects that wouldn't otherwise be there if they didn't have to live in those conditions. And the reason I think that

-- the reason I put this item forward is because they're

-- we are limited in options. I supported the other resolution this morning because I agree, we should look under every possible rock that we can look under for additional funding. But we've been doing that for ten years, and doing that for another ten years, I just don't believe is the best option. It is an option. We'll continue to work on it if the council chooses not to increase the drainage fee this year, but this is an option that's a viable option, that takes these folks out of harm's way. We talk about the african-american quality of life initiative. We talk about the hispanic quality of life initiative. Now we're undertaking asian american quality of life initiative. Here's a community in our own city limits that has no quality of life. Period. They have lost everything in many instances, and are waiting in limbo. I think it's the least that we could do to allow staff to prepare these documents to show the true impact, to further answer some questions that I think need answering, such as, do we have to deduct insurance costs if this is a fee that the city employs, and are we still eligible for fema funds that could recoup these monies, should we raise those fees. I think those are all very important questions, but voting to move forward tonight I think is a critical initial step. And so I just implore my colleagues, you don't have to support raising the drainage fee. In the end, during the budget, you don't have to. But at least give that an option during the budget discussions. We already know that staff is going to propose \$13 in fee

increases this year. 13, in all city departments. This is 75 cents that would literally save hundreds and hundreds of lives. So I just ask you to think about it in those terms. Thank you, mayor.

[18:23:02]

>> I make a motion to approve the item.

>> Mayor Leffingwell: Council member martinez moves to approve item 28, seconded by council member morrison. Mayor pro tem cole.

>> Cole: I want to first of all say I appreciate everybody coming out tonight, and I have been to visit the area on two occasions, and I wholeheartedly support the testimony that those people should not have to live in these conditions. And I pass

-- or put forth the resolution that passed on consent earlier, and it seemed like there was some confusion, as council member martinez's and my resolution are dualing. They are not. They both put forth options. The resolution that I put forth that passed on consent is addressing the floodplain issue citywide, because we have a floodplain issue citywide. And we have properties at risk of flooding citywide. But I think that is a separate issue than the immediate needs that we have in this area. And I have questions about the history of how we have treated those incidents. I appreciate mr. Whaley's testimony that if this had happened in shoal creek or other areas of town, we would not have treated it the same. And I'm curious to know if that really is the case, because it shouldn't be a difference. But I know that I do not remember in the eight years that I've sat on council that we have approved an increase in the fee of this at without a project having had voter approval. And so I think that we need to tea this up for the budget discussions and honestly look at that. And the other question that I had for staff

-- is any staff member here? It's in the resolution, and I heard some comments about not deducting flood insurance proceeds from the buyout. Can you speak to that?

[18:25:39]

>> Yes, council member, I can. My name's jose guerrero, assistant director for the watershed protection department. Your question is in regards to the federal requirements that there cannot be duplication of payments in regards to flood insurance, payments that residents receive in a buyout process. That amount would be deducted from the appraised value of the home, plus the relocation benefits.

>> Cole: And that's in accordance with federal law.

>> Yes, it is.

>> Cole: So we don't have any option with that.

>> Not in the buyout situation that we're under.

>> Cole: And

-- okay. Thank you.

>> Mayor Leffingwell: I have a question while you're up there, maybe you can answer this. A question for somebody in watershed. I understand there's a process underway now that's initiated by the city to complete the buyout in the 25-year floodplain, which was always the plan. I don't think it was ever the plan to buy out the hundred-year floodplain homes, but the 35

-- the 25-year floodplain, and could you tell us about that proposal?

>> Yes, mayor. The city partner with the corps of engineers to purchase a number of homes within the 25-year floodplain, that process was accelerated after the flood. We can prioritize our flooding areas citywide and make priority-based decisions, but when you suffer a disaster of this magnitude, we need to take opportunities to do a recovery buyout. And we started one immediately to purchase 116 homes. We prioritized some of our cip projects, we found some funds in-house to begin that process. We've made 114 out of the 116 offers, and 72 have accepted them to date. And we are moving forward with a proposal to approve and set before council co bonds for a majority of the 25-year floodplains and up to -- with also the federal funding that we received recently, about \$11 million, we can complete the corps project buyout areas.

[18:28:08]

>> Mayor Leffingwell: And that's going to be coming back to council, thatco, next month?

>> That's correct.

>> Mayor Leffingwell: And that includes, you said, nearly complete. It doesn't complete the buyout in the 25-year floodplain of onion creek?

>> I believe it does. I have staff here available that can get into the details.

>> Mayor Leffingwell: Okay. So I guess my problem with this resolution is, I think the commitment is too broad. If we're going to commit to buying out every home in the hundred-year floodplain in austin or providing what other kind of mitigation is necessary on an equitable basis, that is potentially a very large commitment that I'm not

-- I'm not willing to make right now without further information, and that information is requested in the items

--

>> the resolution.

>> Mayor Leffingwell: Sponsored by mayor pro tem cole, co-sponsored by myself. Once we have that information in hand, I think we can make a better decision. But this does commit us to buying out the hundred-year. The goal is to buy out all the homes in the hundred-year floodplain, basically, in this area, and to find a way to do it. It doesn't specify a way to do it. It doesn't make any monetary commitments, but that's the goal it sets, and I'm not ready to set that for one area of the city without talking about every other part of the city.

>> Absolutely.

>> Mayor Leffingwell: So that's kind of where I am right now. And another part, very important part of mayor pro tem's resolution, the last be it resolved actually asks for an analysis of the impact, the potential pay back. We're part of the program now. We're no longer a new start. We're an ongoing program, that buyout from the corps of engineers. Took us a long time to get there, but now that we're there, so those funds

-- I think we can reasonably expect to be coming in every year as part of the federal budget, as was the original plan. But I don't know what that's going to

-- if we go ahead and jump-start, and buy out these properties ourselves, is the corps of engineers

-- nobody knows the answer to this question, about how they're going to treat that. But I think it's

reasonable to assume that they would not be committed to furnish those funds to us, and the city of austin would be entirely on the hook for what we've already spent. I think that is at least one very probable scenario.

[18:30:54]

>> That's correct. We're beginning negotiations with the corps of engineers.

>> Mayor Leffingwell: We'll know the answer to that probably by the end of this summer before we go into budget season, at least, is my understanding.

>> We expect that to be resolved in august, that's correct.

>> Mayor Leffingwell: Yes. So that being the case, I am not going to be able to support this motion as it stands right now because I think we need to go ahead, incrementally, we'll see that 25-year provision for 25-year

-- by the way, the 25-year floodplain buyout co that's coming in, it's my understanding, has no impact on any fees or taxes. It's merely a reallocation of various assets already within city departments. Is that correct?

>> That's right.

>> Mayor Leffingwell: That's correct. So we could do that and then get the additional information throughout the rest of the summer and have a better feel for how we're to proceed, but I'm not

-- I'm not going to put my toe in that hundred-year floodplain water, so to speak, right now. Just -- please, quiet. Council member morrison.

>> Morrison: I want to thank council member martinez for doing the work on this. I'm trying to put together an exploratory, this is exploratory, I'm confused when I hear that it's about a commitment, because it's not a commitment, although I think that we need to look under every rock. I'm

-- I think it's great that the timeline for the discussions that you

-- that staff is having are going to bring us information at the

-- by the end of the summer, so we would have that on the table. This would

-- this resolution will allow us to have other options and understand other impacts of taking different approaches. I do remember there was a flood when I first moved here in 1981, it was in the shoal creek

-- shoal creek flood, and the city stepped in and invested a huge amount of money in making it

-- making that a livable area of town. I also think that we just need to keep in mind that our budget, every budget that we set, every time we spend money, we are identifying and weighing priorities. And we have raised the drainage fee before for particular projects, and it's a matter of priorities. We did raise it in 2011 for tiff didn't perform as it should. Staff is recommending we raise it again. Waller creek is a great project. We want to make sure it keeps going. But it's about priorities and raising the fee, the drainage fee, should we decide to do that, 75 cents, doesn't mean we can't look for other ways to cut back. It doesn't

-- and do some balancing and

-- and maybe not having to have as you have a large increase. Anyway, I feel sort of passionate about this because we have to be able to have a conversation in this town about certain things, and this is merely asking for the information. Maybe we would come out with different votes when it comes to budget, but I think that it

-- to take the steps so that we know what our choices are, that's very important, and I'm fully supportive of this resolution.

[18:34:26]

[Applause]

>> Mayor Leffingwell: Council member Spelman.

>> Spelman: Mayor, I share your fiscal conservatism. I'm not sure anyone else in the auditorium is aware of this, but the mayor has spent hours and hours arguing on behalf of that federal funding to pull these -- to buy out these homes out of onion creek for many years. It's been the very first priority on the city's legislative program with respect to the U.S. Congress. Every time Mayor Leffingwell has gone to the U.S. Congress, which has been several times in the last few years, I think every year since he's been mayor, that's been what he's talking about, he goes from one member's office on their delegation to the next, arguing no are a legislative program, but first arguing for onion creek. I know he's done this because I've done the same thing. All of us that have gone to Washington have done that, except for this year when we didn't have to argue for it anymore because we actually got the money from the Army Corps of Engineers. And I'd like to continue getting that money from the Army Corps of Engineers. On the other hand, I understand how people need a buyout now. Ms. Guerra, are you the person talking with the Army Corps of Engineers or is somebody else doing that?

>> Our staff is and I will be involved as well.

>> Spelman: Let me ask you this, if we pitch this on the Army Corps in the following way, we'll spend money up court but we'll look real kind will I on your willingness to reimburse us over time, we're going to be taking a 20-year note, for example, for buying out a certain number of houses, we would like to be able to retire that note early if we can get reimbursed from the federal government at least partially for doing so, and if we could think of this as a loan we were making to the federal government and the federal government is at least partially responsible for this buyout, I think it would go over easily with the fiscal conservative public, I think it would go over a lot more easily with all of us on the dais if we could make that kind of a deal. Does that sound like the sort of terms we might be able to get out of the Army Corps?

[18:36:28]

>> That sound like a good suggestion. We'll look into that. There's also the FEMA national regulation flood insurance side of substantially damaged properties that should play into that as well.

>> Spelman: That's one of the reasons why all of our buyouts have been according to federal rules, which makes us eligible for reimbursement should the Army Corps of Engineers agree to do reimbursing. That means our money goes further because at least some of it is not a purchase on our part, it's a loan to the federal government on our part.

>> That's correct.

>> Spelman: At what point do you think you'll be able to have a sense for what the Army Corps of Engineers is likely to agree to? You won't have completed your negotiations until the end of August, but will you of a sense for where they're likely to go before that?

>> I think discussions will begin within the next two to three weeks, and we will keep the city manager and council posted on the negotiations.

>> Spelman: I would like very much for all of us to stay abreast of where we are with respect to that. You do think we'll be able to get done with an agreement with the federal government, on whatever terms they agree to, before we actually have to pass a budget.

>> Our target date is by the end of august, we're hoping to finalize the partnership agreement.

>> Spelman: Okay. And they're giving you signals that that's something that's doable from their point of view, or this has been the kind of timeline they've worked on

--

>> this is the timeline that we've tentatively agreed on.

>> Spelman: Okay.

>> Because of the emergency of the budget sessions.

>> Spelman: Okay. Thanks. As council member martinez said and council member morrison just said a moment ago, this is an exploration. We're asking the manager for options. One of the options is ultimately to have the army corps participate very heavily in our

-- assisting us in buying out these properties. But this makes no commitment on the city council's part, and in part because there's no commitment, and because thereof a lot of options which we have only slightly explored, I'm happy to vote for it.

>> Mayor?

[18:38:31]

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: I need to ask you a few more questions. I notice that in the resolution, we talk about there being at least 229 homes in the william cannon drive and pleasant valley road area, in the hundred-year onion creek floodplain, and it says many of which are severely damaged. And what I was trying to figure out is whether we were contemplating buying out properties that were only damaged, or severely damaged, as the language goes, or we were also contemplating buying out properties that were just at risk of being damaged, just within the hundred-year floodplain.

>> Okay. The properties

-- we would certainly target the most severely damaged, substantially damaged properties first and foremost. Those residents living in such properties are are subject to the other conundrum of having to either elevate their homes or tear it down in order to comply with the national flood insurance program regs.

>> Cole: So like the testimony we heard of people still not being able to live in their homes, those would be first priority. Correct?

>> That's correct.

>> Cole: And they still are first priority.

>> And a lot of those homes are in the hundred-year floodplain.

>> Cole: And those not being

-- because the resolution that I passed earlier, the dates that are in it, I actually tracked from this resolution because I wanted the information to come back at the same time so we were evaluating our

options.

>> Yes. We did notice that.

>> Cole: So you noticed that.

>> The timeline was both the same, and we're happy to provide that information as quickly as possible.

>> Cole: Okay. I lost my thought. I doubt if you've been here since could you remember could since council member morrison's memory, but I doubt what we did with shoal creek

-- did you say the flood of '81?

[18:40:44]

>> Right.

>> Cole: You're old.

>> I actually started a few days after the memorial day flood with the city of austin, and we had a citizen's advisory group kind of directing our capital improvement project planning. We constructed a lot of regional detention ponds. Northwest district park was excavated and out to all

-- a lot of ponds were retrofitted in upper shoal creek. Some you wouldn't now were there in parking lots of office buildings but they're technically detention ponds. Bridge improvements, bridge removals. We had some innovative solutions. Detention pond at northcross mall, the original northcross mall. So residents came up with a lot of responses and we hope to get the public dialogue going as well in dealing with this disaster as well with the community.

>> Cole: Because one of the things that is my understanding from all the reading, is that the decision has been made that the infrastructure improvements, the preventative measures, would actually be more expensive. We would still need to do the buyouts and the preventative measures need to be taken off the table because we don't want to encourage any more building in the area. Is that correct?

>> Well, for the lower onion and williamson creek watersheds, a buyout has been identified as the most feasible solution. We've looked at all the structural controls, detention ponds, flood walls, channel diversions, channelization, and due to the environmental ecological damages, a lot of those were not feasible. The magnitude of this area is

-- you know, there was 135 to 140,000 cubic feet per second in the halloween flood, and so that's the monster that we're dealing with.

[18:42:44]

>> Cole: Okay. Thank you, mayor.

>> Mayor Leffingwell: Further comments in council member martinez.

>> Martinez: I appreciate council member morrison's acknowledgment, but I didn't do this work. It was staff that did it. Staff came forward and said, if you want an option, we can come up with those for you, and so moppe and lane and ed and all the staff that has worked so hard on this, they're the folks that really helped us come forward with this because they also see the need in the community that they serve. And so my gratitude is to them.

>> Absolutely. They're here tonight, kevin shu can, or administrator, and buyout team, and the office of real estate services.

>> Martinez: Thank you.

>> Mayor Leffingwell: Let me reiterate, I would be supporting this if it did not include all this hundred-year floodplain language, I won't attempt to characterize it any further than that. I think we ought to be concentrating on the 25-year plan. And we ought to be looking at various solutions, but I don't want -- I certainly am not going to support a 75 cent increase in the drainage fee. And I don't want -- I don't think that should be one of the options that I'm voting to explore further. So one more quick thing, as far as mitigating hazards, the corps of engineers always looks, number one priority, is buyout. That's the solution they like best because it's the cheapest, it is the most permanent solution. The plan has always been to use the property that's acquired in this buyout as parkland, parkland along onion creek, in collaboration with -- travis county has been involved in this as well, and I don't -- to the best of my knowledge, none of that hundred-year floodplain property is contemplated for the parkland. I may be wrong on that, but that's the best of my memory right now.

[18:45:03]

>> Some of the tributary settings, williamson creek, slaughter creek, did recommend channelizations with environmental revegetation of the watershed, but it didn't remove properties completely from the floodplain, but those options were recommended by the corps in certain areas.

>> Mayor Leffingwell: That's always their number one choice, then they look to other -- they do all kinds of solutions, but the number one choice is that, if feasible. If it's not, they go to something else. So council member morrison.

>> Morrison: Now that we're talking about it, do you happen to know how much money we got invested after the shoal creek memorial flood?

>> I do not know but I can track that information.

>> Morrison: That will be very interesting to know. Was it mostly fema money?

>> A lot of it was our g. O. Bonds. I wanted to also share that recent projects that we've completed at the watershed protection department, channelization and flood water protection and channelization of lower williamson creek in the dove springs neighborhood, we built flood wall buyouts and regional detention ponds as well. So we have spread out a lot of our cip projects citywide, and we have in progress citywide.

>> Thank you.

>> Mayor Leffingwell: This plan alone was contemplated between 78-\$80 million, the onion creek buyout in collaboration with the federal government. City of austin has already committed more than its own share, so we're already on the hook a little bit, but I'll be interested to see what that number is for memorial street. I bet those numbers are very comparable when they come back. So I guess we're ready to vote. Those in favor of the resolution, say aye. Opposed, say no. It passes on a vote 6 to 1, with myself voting no.

[18:47:19]

[Applause] let's go to item 63. It's also a resolution. Any comments before we start on the public

comment period? All right. If I could ask you to hold it down so we can go ahead with the next item. We have more to do here. All right. Jane duane. Jane duane. Janet may. Is Janet May here? Bill May? All these

-- all these speakers are signed up against. Patrick duane. Howard herrera. We're blazing through this list. Ray katsuman. Brian refua. Nada katsuman. Roger brown. Roger brown. Okay.

[18:49:20]

>> Councilmen, mayor. I see some of us are hardy souls. I'm signed up against this because you have to check one box or another. I'm a civil engineer, very interested in the environment and water quality. I live in shady hollow. That's not a conflict. I believe that sh 45 can be built in a safe

-- environmentally safe way. The harm to the environmental from not building sh 45, the harm to the environment in other areas of the watershed, including brodie, where there's people talking about doing all kinds of things along there besides parking their cars during rush hour, I think that's -- that has to be weighed in. From what I understand in the latest environmental study, there's -- that has been considered, and it is not necessarily a positive thing to not build sh 45. I encourage you to keep an open mind and allow the city manager to report his findings as

-- without any pressure and support the project

-- the project that he finds is most feasible. I see the traffic out there daily. I avoid it. I drive on mopac every day, so I know what the impact to mopac is. Several people that oppose sh 45 oppose it because they think mopac is their road, you know, it's the

-- not in my backyard, not on my road. You know, keep traffic off of my road. That's

-- that's really not a good attitude. I just encourage you to keep an open mind. I think sh 45 can be built in an environmentally safe way, and it's the best for the city, and I thank you.

[18:52:05]

>> Mayor Leffingwell: You're -- mr. Brown?

>> Yes.

>> Mayor Leffingwell: You had somebody donate time to you. Is Andrew Cox here? Well, he's not here, so it doesn't matter.

>> Okay.

>> Mayor Leffingwell: All right. Bill bunch. Is Pat Bodnax here? She's here. Richard de Palma? Rusty Osborne? Ray Goodrich? Okay. So you have nine minutes.

>> Thank you. And good morning, mayor and council. Thank you so much for saving the best for last. This is an incredibly important issue for the community and for our

-- who we

-- what it says about who we are. I'm going to focus on a few details. I want to especially thank Tovoover for and Morrison for bringing this forward and Mayor Pro Tem Cole's work on this as well. Just to be clear what we're asking for, I'm Bill Bunch, executive director for Save Our Springs Alliance. We have about 3,000 members working to protect Barton Springs. What we're hoping that this resolution will be clear about is that the city is giving clear direction to both staff and to the other entities that deal with

transportation in our metro region, that we are, in fact, opposed to sh 45 southwest. And then the second thing that

-- and this language has been circulated, which we'd like you to add to it, or if it hasn't already been, is a direction to the other entities, especially travis county, hays COUNTY, TxDOT, THAT WE WANT A Comprehensive look at 45 southwest and mopac, and that conversion of mopac to a loop, if, in fact, we build 45 connecting the south end of mopac over to i-35. Right now, because of that limited access on the south end, mopac operates as a local commuter highway. If we make that south end connection to i-35, you're immediately converting it essentially into i-35 west. It's becoming a part of the interstate system. And if we're going to do that, we should be honest about it, AND RIGHT NOW TxDOT IS NOT Being honest about it. They're piecemealing it. They've chopped it into four separate pieces, they're pursuing it all at break neck speed, putting it in boxes with blinders on and not looking at the whole picture and understanding that what

-- and letting us have a community dialogue about whether that is, in fact, what we want to do. So we'd like you to be clear in this resolution, asking those other entities to study the thing, presence comprehensively, under the national environmental policy act, as one project as it really is over the next two or three years, together. Going to my slides, a few background facts are critical. A lot of people think, and I've heard folks on this dais say that we've gotten behind on building roads and we've got to catch up. As this chart shows, we've been building highways, adding lane miles, faster than we've been adding population. Traffic gets worse because driving has gone up even faster. The roads we're building are making congestion worse. And 45 is the perfect example. The whole point of building it is so people can live farther away from job centers in central austin, so they can drive and get on mopac, which is already overly he congested, and make it yet even more congested. So this will not solve anything. It is the perfect example of making congestion worse by building roads that push people and allow people to drive further. How do I

-- here you go. I'm going to skip some of this stuff here. Okay. So we have really two choices for mopac, keep it as a local, or

-- local computer highway, or have it connect over. The environmental issues are critical, protecting barton springs, but also considering our neighborhood along the corridor, all the way from circle city to williamson county, and where we want our growth to go, and where we want our interstate through traffic to go. THIS IS TxDOT'S OWN MAP OF 381 Potential recharge features in the right of way. You can't find any more vulnerable part of the aquifer. This is the catch of front ridge cave, which your pertain requires you and the county to protect. And this is a short video, 15 seconds, of water swirling into it. It's pretty dramatic. When 45 was first laid out in the '80s, an environmental study was done, the environmental document said recharge at the cave doesn't go to barton springs, it goes to the east, or it takes over three years to get to barton springs. Your expert staff has done the day tracing and it gets from here to barton springs in less than three days. The world has changed since this was first laid out. Initially, it was going to be part of a giant loop around the city that would have given people options, but that western part is gone now. And so if we build this part, we're making mopac the western loop by default, without ever actually looking at it, studying, considering what that means for us. So these are the different pieces that are being actively pursued, simultaneously, but separately. And this is what we're really doing. And that's

-- that's what we need to be honest about, and we NEED TO TELL TxDOT, TRAVIS County, and others to

be honest about it and study it first. These are different websites, they're different action items on all those that somehow don't add up to what's really going on. It doesn't have to be this way. It really -- it was never going to be this way, and it shouldn't be this way. Let's keep i-35 traffic off of mopac. Let's study the whole thing first, and figure out the hardest part first, and that's the bridge over town lake. That's the bottleneck. If we build 45 first, we're dumping thousands more cars onto an already maxed out south mopac, and sort of backing us into a cul-de-sac where we're forced to possibly build something that is undesirable. We have alternatives. There's no bus service. That makes no sense whatsoever. They have chosen not to be part of the metro. We can approve brodie. We own the right of way to improve brodie. It's rather remarkable, the previous speaker saying, you know, somebody else wants to own brodie, and they don't want to -- or mopac, keep it for themselves and not fix it. Well, that's what we're getting from shady hollow. We own the right of way. We can improve brodie for much cheaper and much faster. We can improve i-35. We can encourage more use of 130. We can finish the improvements that are underway on menchaca, and then just a slide showing you brodie and the right of way that's there. We can do a lot of improvements to brodie without having to harm a single home or business. So we have alternatives that are cheaper, they're more environmentally sound, and if you approve this, I think it moves us in the right direction to do that. And then finally, the last alternative is continue buying the watershed lands that we've invested so heavily in. We have erased many tens of thousands of trips per day that was originally conceived, though, all this land would be built out and we would need these highways down there. We don't. We can buy the land and preserve it as a traffic reduction strategy for the area. Thank you very much.

[19:01:53]

>> Mayor Leffingwell: Robert corbin?

>> Bill pointed out, you've had it pointed out to you many times about how sensitive this area is, and everyone knows that austin is having or could very soon have water issues. Well, on the last rain that we had, I believe it was the holiday rain

-- halloween rain last year, the aquifer got completely filled up, and so having that aquifer in an unpolluted state is a very

-- as everyone knows, is a great benefit to the city of austin. So state highway 45 should not be built. We should not be playing that kind of russian roulette with the aquifer and taking those chances. And also, there's been some

-- some money spent on other roads, like toll road 130 that isn't doing so well, and there's been a few other boonedoggles like the water treatment plant number 4, where the city now has spent a half a billion dollars on that plant, and it doesn't look like maybe we'll ever get to use that plant. So I'm in favor of this resolution, and we shouldn't be building state highway 45. Thank you.

>> Mayor Leffingwell: Next speaker is roy whaley. Roy, you have six minutes from jason meeker.

>> Thank you. Howdy again, you all, and good morning. Roy whaley, conservation chair of the austin regional group of the sierra club, asking you to pass this resolution and follow through at the will of the austinites, the people of austin who drew the imagine austin plan again and again and again said take sh 45 out of the plan. And it was taken out of the plan. So let's continue with that, please. Let's follow

through on that. Let's do the things that we just heard. Let's protect our aquifer that we have spent so much money protecting so far. If we continue with this, if we look at the amount of money that we've put into open space, put this highway over the over 300 critical environmental features, just in the path of the highway, that doesn't mean they just stuck them all right here and didn't put anything outside of the path of the highway; they're all over the place out there. We put millions of dollars into protecting barton springs and our aquifer, and we have to continue that. In a way, I'm not saying that we don't need to spend money on our transportation problems. We do. But we want to spend that money in a way where it has a real impact, not not where it just incentive ices sprawl, and no, sir where it puts more and more traffic on the road, like brodie, because believe me, I have a lot of sympathy for my friends in shady hollow. But, just as it used to be part of the outer loop to go all the way out into the hill country, and that plan was done in the '70s and '80s, brodie is on the books as a two-lane highway in 1980. We're not asking for it to be a two-lane highway. We're asking that we use innovative intersections that will let people turn right, go south, hit the you turn, and go north, not get stuck in traffic, and to have either an overpass or a signal light crosswalk for the neighborhood folks and the kids to be able to safely cross brodie lane. We do want that. But there are ways that we can address our traffic concerns without building the developers in hays county a sprawl highway. And that's essentially what this is. It does not benefit travis county, it does not benefit the residents of austin. It doesn't help the austin citizens. So I would hope that each and every one of you will say, we want to continue with what we have said before. We do not want sh 45. And it's a very simple thing to do tonight. And so I will sit down now because it's late, and I'll let you get to that vote because I have every confidence that all of you are going to say, by golly, roy whaley is right again. Thank you.

[19:07:05]

>> Mayor Leffingwell: That's all the speakers that we have signed up that want to speak. Did you want to say something, council member tovo? Okay.

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

>> Mayor Leffingwell: Council member tovo moves approval. Second by council member morrison.

>> Cole: Mayor.

>> Mayor Leffingwell: Mayor pro tem cole.

>> Cole: I have a friendly amendment that citizen bill bunch has already discussed that basically puts -- makes it clear in our resolution that we need the help of travis county TxDOT RMA AND CAMPO.

>> Mayor Leffingwell: Is that this?

>> Cole: Yes.

>> Mayor Leffingwell: Friendly amendment proposed. Is that accepted? Okay. It's incorporated.

>> Mayor, I've got another amendment which I hope will be regarded as friendly.

>> Mayor Leffingwell: Council member spelman.

>> Spelman: That reaffirms what we heard a few minutes ago, reaffirms our support for purchase of park and preserve land as tool for addressing water quality and environmental sensitive land. Actually, this wasn't a citizen bunch who recommended the language, it was citizen cofer, but seems to me this is a good time to reaffirm that.

>> Mayor Leffingwell: Council member tovo.

>> Tovo: I would like to talk about that one and I would like to ask mr. Bunch whether this is really what he means. So I appreciate

-- I really appreciate the work of the hill country conserveance.

>> Mayor Leffingwell: I think you said that was citizen cofer.

>> Tovo: But I was speaking more generally about the hill country

-- on the face of it, absolutely, I'm on board with, you know, confirming our support for the purchase of park and preserve land. Here's what makes me a little uncomfortable. I understand that the hill country conserveancy has a tract that will go forward, only if sh 45 is going to be built. And so I'm very uncomfortable as I contemplate a line

-- I want it to be very clear in all of our discussion, if this line comes into our resolution, that this in no way dilutes our opposition to the building of sh 45. That building

-- purchasing land alongside of sh 45 is not

-- is not in line with our vision of the future transportation network of austin. That, yes, absolutely, we should be preserving or purchasing, rather, park and preserve land as a tool for water quality and protecting environmentally sensitive land, but it's not going to be a way to make an objectionable highway suddenly environmentally okay.

[19:10:03]

>> If you're concerned that any of us may feel some conflict, gosh, george can't get this land if we don't build this highway, I feel no such conflict, and I don't suspect any of our colleagues will feel that, whether they're for sh 45 or not, I don't think that's an issue. One

-- it's late, and it's a long subject, but we may as well get into it a little bit. As three

-- four of us know, because we sit on campo, the vast majority of campo members believe sh 45 southwest ought to be built. They're wrong. They haven't seen the light yet, and we will continue to beat them up until they do see the light, but as for now, and the last time the record vote was taken on the subject in campo, the vote was some large number to three, three

-- was it 14 to three? Okay. 14 members of campo thought sh 45 ought to be in the tip of the, the transportation improvement project list, and three of us, all members of the austin city council thought it should not. I don't think the three of us are going to change our minds, but there is a chance, and unfortunately I'm afraid it's a good chance, that that

-- that what we have here to say and what it is we all believe will not prevail in the long run. I hope it does. I will ten to try and make it so, but I think we have to of a backup plan in case we lose. If we lose, there's two ways this can go. One way is if we have a typical toll road which has through ways in the middle, and then frontage roads on both sides and commercial development on both sides, which I think would be an even bigger disaster than just the building of the road itself, because it would involve a lot of commercial development, a lot of residential development on both sides of that highway, and all of those critical water features getting filled in, and the amount of water getting into the aquifer and the quality of water getting into the aquifer would appreciably diminish. It is also awful, but less

-- considerably, I think, less awful, if we could purchase or arrange to help george purchase land on both sides of that road so that we end up with a through road, and we are at least protecting the stuff on both sides of it. Now, I could go on for a lot longer on the value of that, and I hope we don't

-- it doesn't come to that, but I think what George was getting at here was, well, if we lose, we ought to be prepared to help the city cough up some money or see if we can find
-- get the county to cough up some money or help George cough up some money to make sure we don't get commercial development on both sides of the highway because that would be a true disaster.

[19:12:48]

>> I completely agree with you that it would be a true disaster. This is a practice we already have. It's a principle we already have as a city council, and as a city, and the insertion of it into this resolution makes me uncomfortable because it does link them in some way that might suggest to somebody out there that we see that as a viable alternative if the road

-- a viable alternative if paired with the road. But I would say let's go ahead and put it to a vote because I'm interested in my colleagues, in having some discussion about it.

>> Mayor Leffingwell: Council member Tovo does not accept that as friendly.

>> Tovo: Anyone I was going to vote for it, I just said I want the benefit of discussion that will ensue from having it be a formal motion. But I would like to invite Mr. Bunch up to talk about it because you did make a similar point in terms of investing in land in the Barton Springs

--

>> yes. I definitely share your concerns with this, and I would just say to Mr. Spelman's idea that we, as a city, would contribute money to buying that mitigation land, that Judge Biscoe and Commissioner Dougherty will however much money they have to spend to make this the best road that can be built, including land, if this gets bought, it NEEDS TO BE BOUGHT BY TxDOT And the RMA and Travis County. Our city has other priority tracts that your staff have had their eye on that need to be purchased and that we should keep those priorities at the top of our list.

>> Mayor Leffingwell: Council member Spelman.

>> Spelman: Although I'm extremely unhappy with the fact that Judge Biscoe and Commissioner Dougherty think this road needs to be built, I don't think it does, and I think even Commissioner Dougherty is having second thoughts as to the value of the road for anything other than his own political purposes, I am at least encouraged that if they bull forward and are able to get Williamson County, Hays County, and the other suburban counties to go along with them in BUILDING THIS ROAD AND TxDOT coughs up the money and the damn thing starts constructing, at the very Minnesota numb, at least they'll do the right thing and mitigate like crazy. So I have to support them in that, even though I have no support whatever for the road itself. I don't think this is in conflict with that at all. It is still part of our policy, and if it's going to help George to get whatever he needs to buy that land, I'm happy to support it.

[19:15:37]

>> Well, I haven't seen the actual language, so I don't know what it says, but your comments were suggesting we should put city money to buy that land.

>> Park and Preserve Land have tool to address the quality of environmentally sensitive land. We can confirm our support for the purposes, even if we are not ourselves purchasing that land.

>> Spelman: And to the extent anyone believes there is any conflict in my mind, there is none. I guess I

just

-- there shouldn't be a hint, I think as council member tovo is getting at, that this would be our priority for buying watershed protection land, and given the statements that have been made over and over and over, that full purchase price of the walters land, that mr. Cofer has been working on should come from other pockets.

>> Spelman: I would prefer that, too. Nevertheless, mayor, I'd like to offer this as an amendment.

>> Mayor Leffingwell: Council member spelman offers it as an amendment. Is there a second for that? I'll second. Council member morrison.

>> Morrison: I wanted to just mention that I'm not going to support it because it's a complete non-sector to the rest of the resolution. If george would like to work with us to do a resolution about how this is a policy of ours, then probably we can tie in imagine austin and talk about all the great work we've done, fine, but I just think that because we're having this discussion about what the facts are, about a particular piece of property and what it might mean, I just

-- I think it would just be better to leave it out, and if we need to do another resolution sometime with george, that would be potentially the right thing to do.

[19:17:40]

>> Mayor.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: I just want to follow up on council member morrison's thinking. I think the language is just fine, it's just not consistent with what we're talking about with 45, and there's this whole other discussion about a particular tract of land and what it may do, and the what the hill country

-- I'm not going to support the motion.

>> Mayor Leffingwell: Okay. So I guess we're ready to vote on the proposed amendment. Those if favor say aye. That was an yay on cowell cowell. Opposed, say no. No. And I think it face on a vote of four to three, with council members martinez, tovo, moyer morrison and cole voting no.

>> That brings us back to our motion. I just want to say I think this is an important thing to do. I think all of the data suggests that building sh 45 is going to increase our traffic loads on mopac, and it will really make

-- make what is already a difficult traffic situation worse for many austin residents, and it also poses very significant threats to some of our most environmentally sensitive land. So I am pleased that we are poised to reaffirm our opposition to it. I think that's an important message to send to our partners.

>> Mayor Leffingwell: Let me just say that I do believe this road will be built. I do believe it will be the most environmentally sensitive road ever built in central texas. It is a regional project. It is not the city's say so. If it is not built, it won't be because of this resolution. Because campo has already voted to put it in the tip, transportation implementation plan, which means it's basically on its way. And so I do believe in regionalism. I believe in regionalism, regional solutions to our transportation problems. I believe we have to cooperate with our neighbors. I'm going to respect the vote of travis county and austin voters decades ago to approve this road. I'm going to respect the travis county commissioners court that has purview over this road, along with the hays county court. And I'm going to respect the campo organization, that I'm a member of, that has also approved this road. So I will not be supporting the

motion. Those in favor say aye.

[19:20:28]

>> Aye.

>> Mayor Leffingwell: Opposed, say no. Passes on a vote of 6 to 1 with myself voting no. [Applause]

>> Mayor Leffingwell: With that objection, we're adjourned at 1 1:20 a.M.